

VOLUME TWO OF TWO

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Doyet A. Early, III, Circuit Court Judge

THE STATE,

V.

MAURICE ALPHONSO ROBERTS, JR.,

ORIGINAL
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SC Court of Appeals
RESPONDENT

APPELLANT

APPELLATE CASE NO. 2014-000468

RECORD ON APPEAL

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INDEX

INDEX i

TRIAL TRANSCRIPT (FEBRUARY 24-28, 2014)..... 1

OPENING STATEMENT BY MS. SIMPSON 2

OPENING STATEMENT BY MR. SUTHERLAND 18

TESTIMONY

 REGINALD GRANT

 Direct Examination by Ms. Walker 23

 Cross Examination by Mr. Sutherland 28

 JOSHUA WILLIAMS

 Direct Examination by Ms. Walker 30

 Cross Examination by Mr. Sutherland 47

 CHANDLER DAVIS

 Direct Examination by Ms. Simpson 48

 MICHAEL BEELER

 Direct Examination by Ms. Simpson 56

 Cross Examination by Mr. Sutherland 96

 YVONNE WOODS

 Direct Examination by Ms. Campbell 98

 TRENTON SCOTT

 Direct Examination by Ms. Simpson 117

 Cross Examination by Mr. Sutherland 147

 STAN RICHARDS

 Direct Examination by Ms. Walker 149

 Cross Examination by Mr. Sutherland 166

 CINAMON WRIGHT

 Direct Examination by Ms. Simpson 167

 MARY ELLEN SWAIN

 Direct Examination by Ms. Walker 176

JWAN DUCKETT

Direct Examination by Ms. Simpson	183
Cross Examination by Mr. Sutherland	213
Redirect Examination by Ms. Simpson	216

ANGEL L. CRUZ

Direct Examination by Ms. Walker	219
--	-----

TROY SCOTT

Direct Examination by Ms. Campbell	223
Cross Examination by Mr. Sutherland	246

CARI PEARSON

Direct Examination by Ms. Campbell	250
Cross Examination by Mr. Sutherland	261

CHARLES SIZEMORE

Direct Examination by Ms. Walker	262
--	-----

DEMETRICE JAMES

Direct Examination by Ms. Simpson	264
Cross Examination by Mr. Sutherland	286

TIMOTHY LEE

Direct Examination by Ms. Walker	291
Cross Examination by Mr. Sutherland	293

VINCENT NELSON, JR.

Direct Examination by Ms. Walker	293
Cross Examination by Mr. Sutherland	334

TERRI GLEASON

Voir Dire Examination by Ms. Campbell	338
Direct Examination by Ms. Campbell	340

JOHN BARRON

Voir Dire Examination by Ms. Simpson	358
Direct Examination by Ms. Simpson	361

JOHN BARRON

Direct Examination by Ms. Simpson Resumes	377
Cross Examination by Mr. Sutherland	393
Redirect Examination by Ms. Simpson	399
Recross Examination by Mr. Sutherland	401

AMY DURSO	
Voir Dire Examination by Ms. Walker.....	407
Direct Examination by Ms. Walker	409
Cross Examination by Mr. Sutherland.....	418
Redirect Examination by Ms. Walker.....	419
TRISHA ODOM	
Voir Dire Examination by Ms. Simpson.....	420
Direct Examination by Ms. Simpson	423
DESHAWN MCCLARY	
Direct Examination by Ms. Campbell.....	436
Cross Examination by Mr. Sutherland.....	460
Redirect Examination by Ms. Campbell.....	463
STEPHEN SCOTT FAUST	
Direct Examination by Ms. Simpson.....	464
Cross Examination by Mr. Sutherland.....	490
SCOTT MCDONALD	
Direct Examination by Ms. Walker	500
Cross Examination by Mr. Sutherland.....	527
Redirect Examination by Ms. Walker.....	535
JAMES BOLAND	
Direct Examination by Ms. Campbell.....	536
Cross Examination by Mr. Sutherland.....	567
Redirect Examination by Ms. Campbell.....	570
JAMES S. SMITH	
Direct Examination by Ms. Campbell.....	571
Cross Examination by Mr. Sutherland.....	582
CLOSING ARGUMENT BY MS. WALKER.....	586
CLOSING ARGUMENT BY MR. SUTHERLAND.....	622
CHARGE ON THE LAW.....	641
VERDICT	669
SENTENCING	685
RENEWAL OF MOTIONS AND OBJECTIONS AND MOTION FOR A NEW TRIAL (MARCH 7, 2014)	686

MOTION HEARING TRANSCRIPT (MARCH 11, 2014).....693

NOTICE OF APPEAL.....718

INDICTMENTS.....720

CERTIFICATE OF COUNSEL.....730

S. McDONALD - DIRECT EXAMINATION BY MS. WALKER

726

1 also come in maybe late 11, 12ish on the 26th. I would
2 come in to see what I could do to try to help move the case
3 along. They had all gone home after being out all night.

4 Q. When you're dealing with a crime of this gravity, is
5 it peculiar for multiple investigators to become involved
6 in different aspects of the case?

7 A. No, not at all. We, we utilize a number of
8 investigators on murders. Very common.

9 Q. And what would your role become as you became involved
10 in this investigation?

11 A. I was the supervisor trying to help perpetuate this
12 investigation to identify suspects.

13 Q. And on the 26th, were y'all able to identify one of
14 the suspects?

15 A. Yes, we were. We were able to get the J School
16 subject identified. After looking through many databases
17 and photos and things like that, we were able to get a
18 match to one that matched his Facebook post and the picture
19 that we had, and that was confirmed through his date of
20 birth. And we were able to positively ID him as being one
21 in the same Vincent Phillip Nelson, Jr.

22 Q. That same day, would you meet with one of the victims
23 in this case, Mr. Troy Scott?

24 A. I would.

25 Q. And what was the purpose of meeting with Mr. Scott?

1 A. We -- I had prepared a photo lineup with Vincent
2 Nelson in it, and I believe at this point we had also met
3 with Mr. Liberty, and he had supplied the name of Leonard,
4 the subject who lived on Union Street. Said that Mr.
5 Nelson only associated himself with a couple people, and
6 based on the description he was given by the Scotts, he
7 believed that Leonard could be one of the parties involved
8 in this incident. I did some research on some databases
9 and came up with a Leonard Gaston living on Union Street,
10 and I put him in a photo lineup as well.

11 Q. And were you aware at that time that Mr. Liberty was
12 never at the incident location?

13 A. I was.

14 Q. But he was trying to be helpful, I guess?

15 A. He was trying to be helpful. He knew Mr. Nelson and
16 knew his associates, and he didn't associate with very many
17 people, which limited the scope of the possible other
18 suspects. And based on the description that the Scotts had
19 given to him, he suggested this name.

20 Q. And did you ---

21 A. So ---

22 Q. You said you put Mr. Gaston in a photo lineup?

23 A. I did.

24 Q. Did Troy Scott, who was actually present at the crime
25 scene, identify Mr. Gaston as being a participant in this

1 murder?

2 A. No, he did not.

3 Q. I would like to turn your attention, Captain, to the
4 28th of January of last year. Did you continue to be
5 involved in this investigation?

6 A. Yes. By this point Investigator Boland, who had
7 responded initially that night, was the primary
8 investigator assigned to the case. We all -- I had also
9 put Investigator Tanner as his secondary to run on the case
10 with him. Myself and two of my sergeants in the Major
11 Crimes Unit, Sergeant Isenhoward and Sergeant Lindler, were
12 also assisting.

13 Q. And at that point, did you become aware of a possible
14 location of Vincent Nelson, Jr.?

15 A. Right. We had an address on [REDACTED]. I believe
16 [REDACTED] was a previous residence. I instructed
17 the investigators to get warrants for murder and the other
18 associated charges and a search warrant for this residence.
19 We all responded to this location in hopes of locating Mr.
20 Nelson and searching the residence.

21 Q. And what was that location? That was the [REDACTED]
22 Drive location?

23 A. That's correct.

24 Q. And was Mr. Nelson at that location?

25 A. He was not. We made contact with a family member who

1 told us that he no longer lived there. We had other
2 information on some other locations we wanted to check from
3 various databases that he had another address we wanted to
4 check out that he had been associated with.

5 Q. And, Captain, did y'all, did y'all, in fact, check out
6 that address?

7 A. We did. We went to Hammond Village Apartment [REDACTED]
8 knocked on door there to see if we could locate him.

9 Q. Tell us what happened once you knocked on the door at
10 Hammond Village.

11 A. When we knocked on the door, didn't get a response.
12 Knocked again. We heard some rumbling, some noise inside.
13 We obviously believed someone was inside. We continued to
14 knock, identified ourselves ---

15 Q. Okay.

16 A. --- as being with the Richland County Sheriff's
17 Department. Please open the door; please open the door.
18 In my best estimation, we were probably outside a minute
19 and a half or so, maybe two minutes, before someone finally
20 came to the door, which was Mr. Maurice Roberts, Sr., who
21 answered the door.

22 Q. And Mr. Maurice Roberts, Sr., what is his relationship
23 to the defendant?

24 A. He would be the defendant's father.

25 Q. And did you speak with Mr., Mr. Roberts, Sr.?

S. McDONALD - DIRECT EXAMINATION BY MS. WALKER

730

1 A. We did, yes, and we explained why we were there. We
2 explained we were looking for Vincent Nelson. This was a
3 previous address he used before, and we had an arrest
4 warrant for him.

5 Q. And did Mr. -- did the senior Mr. Nelson tell you
6 whether or not -- or I'm sorry, the senior Mr. Roberts tell
7 you whether or not Mr. Nelson was in the residence?

8 A. He denied him being present. We asked if we could
9 come in to check for ourselves, which he did allow us to
10 do.

11 Q. And was his information to you, in fact, a lie?

12 A. Yes, it was. Sergeant Isenhoward immediately spotted
13 subject asleep on the couch, and as we approached that
14 person, it, in fact, was Vincent Nelson.

15 Q. And at this point, were -- in fact, were you making
16 entry into the residence as well?

17 A. Yes, me and several of the other investigators.

18 Q. Who, aside from the investigators, who were the actual
19 people that were occupying the residence at that time?

20 A. There was Mr. Roberts, Sr., who we had spoken with;
21 Maurice Roberts, Jr.; Maurice's mother, whose name escapes
22 me at the moment. We found another subject, upon clearing
23 the residence, upstairs: Jwaun Duckett. He was in a
24 closet.

25 Shortly after making entry and placing Mr. Nelson

1 under arrest, myself and another investigator, I think
2 myself and Isenhoward, talked to Mr. Roberts, Sr., about
3 conducting a consent to search. Since we had located a
4 murder suspect in there, obviously we were interested in a
5 weapon or anything else that might tie into this case. So,
6 we did get consent to search.

7 MR. SUTHERLAND: Objection. That's hearsay. Consent
8 from Maurice, Sr.

9 THE COURT: Overruled.

10 MR. SUTHERLAND: Yes, sir.

11 BY MS. WALKER:

12 A. We did get the consent to search. That's when the
13 other investigators went upstairs and located Mr. Duckett.
14 We located some cell phones, a small bit of marijuana, and
15 we were continuing to talk to Mr. Roberts.

16 MR. SUTHERLAND: Objection, Your Honor. May we
17 approach, sir?

18 THE COURT: Yes, sir.

19 (OFF-THE-RECORD BENCH CONFERENCE.)

20 THE COURT: All right, Mr. Foreman, ladies and
21 gentlemen of the jury, obviously the fact that they found a
22 little bit of marijuana hasn't got anything to do with this
23 case. So, just disregard that. It's not any element of
24 any of the offenses that we're dealing with. That's just
25 something collaterally that was found in the house. That

S. McDONALD - DIRECT EXAMINATION BY MS. WALKER

732

1 hasn't got anything to do with the trial of this case.

2 Is that satisfactory?

3 MR. SUTHERLAND: Yes, sir.

4 MS. WALKER: Thank you, Your Honor.

5 BY MS. WALKER:

6 Q. After conducting the search of the home and finding, I
7 guess at that point, Mr. Duckett, Mr. Roberts, Jr., and
8 Vincent Nelson, Jr., did you continue to, to, I guess, make
9 contact and try to figure out who all was involved in the
10 murder?

11 A. That's correct. We continued talking to Mr. Roberts,
12 Sr., and to Maurice, trying to gather more information
13 because at this point we knew we had several individuals
14 involved. We just didn't know who, other than Mr. Nelson.

15 As we were talking, both Mr., Mr. Roberts, Sr., and
16 Maurice, Jr., indicated that Nelson went off and used a
17 cell phone, one of their cell phones. It was very common.
18 In fact, Maurice Roberts, Jr., pointed out, in fact, that
19 on the night of this incident that Vincent Nelson did, in
20 fact, have his cell phone.

21 Q. And did he tell you which cell phone -- how many cell
22 phones did you locate in that home?

23 A. I believe there were three.

24 Q. And did he tell you which cell phone he said Vincent
25 Nelson, Jr., had?

1 A. Yes. It was his phone, which was a camouflaged phone,
2 as he called it. It had a plastic cover on it that's
3 camouflaged in color.

4 Q. And did you take custody of that phone?

5 A. Yes, that and the other two phones as well, but
6 especially the other one.

7 Q. And did you have further contact with Maurice Roberts,
8 Jr., that day?

9 A. Yes, I did. Once he started telling us about, you
10 know, his phone had been used that night, we were curious
11 as to what else he might know. So, at that point I asked
12 him, in front of his father, if he would ride down to the
13 sheriff's department with us and discuss this further. And
14 he fully agreed to voluntarily come to headquarters with
15 us. He was -- wasn't under arrest. He wasn't put in
16 handcuffs. He was just asked to come in our car.

17 Q. And did you transport him to headquarters?

18 A. I did, myself and Sergeant Lindler.

19 Q. And at -- during that drive, did you have any
20 conversation with him about the actual murder?

21 A. Not at that time. We just had small talk, I believe.
22 You know, where you go to school, how far did you go in
23 school, just, you know, small talk. Nothing about the case
24 at that point.

25 Q. When you got him to headquarters, did y'all's

S. McDONALD - DIRECT EXAMINATION BY MS. WALKER

734

1 conversation turn towards actually discussing the facts of
2 this case?

3 A. Right. The first thing I did when we got into my
4 office, along with Sergeant Lindler, was pull out an
5 advisement of rights form. I didn't know what he might
6 inform me of.

7 Q. Let me show you State's Exhibit Number 1 and ask you
8 if you recognize that.

9 A. Yes. This is the form where I advised Mr. Roberts of
10 his advice of rights and his waiver of rights.

11 MS. WALKER: Your Honor, at this time the state seeks
12 to admit Exhibit 1 into evidence.

13 MR. SUTHERLAND: Previous objection, Your Honor.

14 THE COURT: You're protected on your previous
15 objection.

16 MR. SUTHERLAND: Yes, sir.

17 (ADVICE OF RIGHTS FORM MARKED INTO EVIDENCE AS STATE'S
18 EXHIBIT NUMBER 1.)

19 BY MS. WALKER:

20 Q. Can you explain to the jury how you advised Mr.
21 Roberts of his rights and walked him through that?

22 A. We have a form. It's our Richland County Sheriff's
23 Department interrogation Advice of Rights form that I went
24 over with Mr. Roberts. On here is his name; the location
25 this occurred at, which was Richland County Sheriff's

1 Department; the officers that were present when I advised
2 him of his rights, which were myself, Sergeant Isenhoward
3 and Sergeant Lindler; the date, which was January 28, 2013;
4 and the time 1425, which military time is 2:25 PM. I then
5 proceeded to go down reading each line here, which I'll
6 read to you, and I put a check after each line indicating
7 -- asking Maurice if he understood what I was reading him,
8 and, if he did, then I would put a check there and continue
9 on. So, I started off:

10 Before we ask you any questions, you must
11 understand your rights. You agree?

12 He understood that.

13 You have the right to remain silent.

14 He agreed he understood that.

15 Anything you say can be used against you in
16 court.

17 Once again, the same.

18 You have the right to talk to a lawyer for advice
19 before we ask you any questions and have the
20 lawyer with you during any questioning.

21 He understood that.

22 If you cannot afford a lawyer, one will be
23 appointed for you before any questioning if you
24 wish.

25 He understood that.

1 If you decide to answer questions now without a
2 lawyer present, you still have the right to stop
3 answering at any time. You also have the right
4 to stop answering at any time until you talk to a
5 lawyer.

6 Once again, he understood that and agreed to talk to
7 us. I then proceeded to read the waiver of rights. I
8 read this and it's the -- states:

9 I have read this statement of my rights and
10 understand what my rights are. I am willing to
11 talk and answer questions. I understand and know
12 what I am doing. No promises have been made to
13 me, and no pressure or coercion of any kind has
14 been used against me.

15 As I went over this, I stopped at the word coercion.
16 A lot of people don't, don't know what that means. I asked
17 him if knew what it meant. He wasn't sure. I explained to
18 him coercion is force.. I'm not going to force you to talk
19 to me; we're just going to talk. No one's going to put a
20 gun to your head or anything like that. This is a
21 voluntary thing, and he understood exactly what I meant by
22 that.

23 I then checked this section off as well. I asked him
24 if he understood his rights that I've read to him up here
25 and to agree to talk to us. If he would please sign this

1 form, which he did, and this was witnessed by myself and
2 Sergeant Lindler.

3 Q. And at that point, after advisement of his rights, was
4 Maurice Roberts under arrest?

5 A. No, he was not.

6 Q. Was he free to leave at any point in time?

7 A. He was. This was just out of an abundance of caution
8 in murder investigations. You know, we're very cognizant
9 of rights and we didn't know what he might tell us. So, we
10 wanted to make sure we had advised him of his rights at
11 this point.

12 Q. And, and what room at the sheriff's department did
13 this conversation take place at?

14 A. In my office.

15 Q. And who all was present for that?

16 A. For the advice of rights, Sergeant Isenhoward and
17 Sergeant Lindler. Isenhoward would depart right after
18 this. He went to go interview Mr. Duckett.

19 Q. And did he -- did Maurice Roberts appear to understand
20 what you were saying?

21 A. Yes.

22 Q. Did he appear to be under the influence of any drugs
23 or alcohol?

24 A. No, not at all.

25 Q. Did he engage with you in a way that made you

S. McDONALD - DIRECT EXAMINATION BY MS. WALKER

738

1 understand that he understood the questions you were asking
2 him?

3 A. Yes, he did.

4 Q. Was he deprived of food during this conversation?

5 A. No.

6 Q. Was he deprived of water during this conversation?

7 A. No.

8 Q. And after advising Maurice Roberts of his rights and
9 him, waiving those rights, did he, in fact, give you a
10 statement?

11 A. He did. Initially he denied any involvement or any
12 knowledge.

13 MR. SUTHERLAND: I renew my previous objections, Your
14 Honor.

15 THE COURT: Previous objection?

16 MR. SUTHERLAND: Oh, the previous objection was on the
17 waiver, and this objection is on the statement, sir.

18 THE COURT: You are protected.

19 MR. SUTHERLAND: Thank you, sir.

20 BY MS. WALKER:

21 A. He initially told us he didn't have any involvement or
22 knowledge in this incident. We talked a little bit about
23 this, kind of laid it out. How did you know, you know,
24 who, who are some of the other people that may be involved,
25 that kind of thing. Weren't going too far at that point.

1 Sergeant Isenhoward would periodically check back with
2 us. He was interviewing Mr. Duckett, as well as Major
3 Smith and Investigator Boland were interviewing Nelson.
4 So, information was starting to flow about the incident,
5 and we're starting to get some more information about
6 parties involved. Of course, both of those parties
7 indicated Maurice was involved in this incident. As we
8 started to confront Maurice with some of these facts, his
9 story started to change.

10 Q. And in an investigation, is it uncommon for suspects
11 to deny involvement until confronted with certain evidence?

12 A. That happens all the time, yes.

13 Q. And at some point, did he begin to make certain
14 admissions?

15 A. Yes, he did.

16 Q. And were those admissions reduced to writing?

17 A. They were.

18 Q. Let me show you what's been marked as State's Exhibit
19 2 and ask you if you recognize this.

20 A. Yes. This is a written statement I took from Maurice
21 that day.

22 MS. WALKER: Your Honor, at this point the state seeks
23 to admit Exhibit 2 into evidence.

24 THE COURT: All right. Same objections earlier noted?

25 MR. SUTHERLAND: Yes, sir.

S. McDONALD - DIRECT EXAMINATION BY MS. WALKER

740

1 (STATEMENT MARKED INTO EVIDENCE AS STATE'S EXHIBIT
2 NUMBER 2.)

3 MS. WALKER: Your Honor, permission for the captain to
4 publish that statement to the jury?

5 BY MS. WALKER:

6 A. This is a statement I took from Maurice Roberts on
7 January 28, 2013, at 1522 hours, which would be at 3:22 PM.
8 This was taken in, in the presence of myself and Sergeant
9 Lindler. It's in a question and answer format, and I'm
10 asking the questions and Maurice Roberts, Jr., is answering
11 the questions, and it begins:

12 Question: What can you tell me about the
13 shooting that took place on January 25th, 2013,
14 at [REDACTED]

15 Answer: I was at my house that night around
16 10:00 or 10:25 PM with Junior. That's when 600
17 and Metro came over to my house. While we were
18 there, Junior talked about going over to his
19 homeboy's house for a lick. He said they had a
20 studio there. Junior said the house was over
21 there by the Village. Junior had my cell phone
22 and left the house about five minutes before me.
23 600 and Metro did -- left about five minutes
24 before 600 and Metro did. The plan was that
25 Junior would get inside and then call us to let

1 us know when to come. We then began to walk over
2 towards E.E. Taylor School. While we were
3 walking, 600 got a phone call from Junior. 600
4 gave me the phone. Junior told me that he was
5 in, that his homey's daddy let him in. I told
6 Junior that he didn't need to do this shit with
7 the boy's daddy there. I was walking down
8 [REDACTED] with 600 and Metro. I stopped when
9 I got in front of the house. Metro and 600 kept
10 walking past the house and then turned around and
11 came back up to the house and took off running
12 down the driveway. I saw them telling the people
13 to get down. 600 and Metro began tussling with
14 someone in the driveway. I saw him tussling and
15 ran down the driveway to help out. The boy had
16 600 on the ground, and I ran down and pulled the
17 boy off of 600. When I did this, the guy turned
18 around and hit me with his elbow in my eye, and
19 the boy then turned around and hit me with his
20 first. 600 then pistol whipped the boy and he
21 fell down. 600 then went down -- then went to
22 the doorway of the door at the bottom of the
23 driveway. 600 was trying to get the door open.
24 The other boys were trying to shut the door on
25 him, and he got his arm or hand stuck in the door

S. McDONALD - DIRECT EXAMINATION BY MS. WALKER

742

1 and was screaming for help. I ran over and tried
2 to help push the door open so 600 could get his
3 hand out. That is when I heard the gunshot go
4 off from 600's gun. After the first shot, 600
5 and I back away from the door. That's when 600
6 ran up the hill and started shooting the boy that
7 was down in the middle of the driveway about
8 halfway up. When I saw this, I took off running
9 and ran back to my house. When I got back to my
10 house, I was the first one there. Junior then
11 showed up. Junior was saying niggas don't know
12 how to listen. I cut on the TV and turned on the
13 news to see if there was anything about what had
14 just happened. I went and got some ice to put on
15 my eye. I then laid down and fell asleep.
16 Junior woke me up about 2:00 AM. Junior wakes me
17 up to show me something on Facebook. It said
18 rest in peace, Beezy.

19 Q. And did you know who Beezy was?

20 A. Beezy was the, the victim in this, yes.

21 Q. Of the nickname for Brandon Jones?

22 A. Brandon Jones, yes.

23 Q. Go ahead, sir.

24 A. Maurice says:

25 I said damn, bro, to Junior and then went back to

1 sleep.

2 Question: While you were at the house during
3 this incident, did you hear someone ask how many
4 people were in the house?

5 Yes, whoever the guy that got shot was being
6 asked how many people were in the house by 600.

7 Question: Did you shoot anyone that night on
8 [REDACTED] Drive?

9 Answer: No.

10 Did you have a gun with you that night, January
11 25th, 2013?

12 Answer: No.

13 Who had the gun and did the shooting?
14 600.

15 Question: What is 600's real name?

16 Answer: I don't know his name. I just know of
17 him.

18 Question: Can you describe 600 to me?

19 He's about 6 foot, skinny fellow, albino. He was
20 wearing all black, I think. Twenty-one years
21 old.

22 Question: What were you wearing that night?

23 Brown camouflaged pants, black hoodie with a hole
24 in the left shoulder. I accidentally bleached it
25 yesterday when I was doing the dishes.

S. McDONALD - DIRECT EXAMINATION BY MS. WALKER

744

1 Question: Who is Metro?

2 I don't know his real name. Black male, 5/7 to
3 5/8, average build, nineteen years old, medium
4 complexion. He was wearing a skull cap with a
5 hoodie over it. I think he would -- I think he
6 was wearing all black as well.

7 Question: Where is the gun at now?

8 Answer: I don't know, sir.

9 Questions: Is the picture I showed you, Vincent
10 Nelson, the person you know as Junior?

11 Answer: Yes.

12 Q. Now, did, did that conclude the written statement?

13 A. Yes, it did.

14 Q. And I guess he -- the clothes that he accidentally
15 bleached while doing, was it the dishes?

16 A. That's what he said.

17 Q. Well, did y'all recover those?

18 A. I believe we did, yes.

19 Q. And the cell phone, I want to show you what's been
20 marked as State's Exhibit 38. Ask if you recognize this.

21 A. Yes. This is the camouflaged cell phone that Mr.
22 Maurice Roberts pointed out to me as being his phone that
23 Vincent Nelson had used on the night of this incident.

24 Q. And do you recall who this phone was -- who actually
25 had this phone when you recovered it?

1 A. I believe it was given to me by Investigator
2 Isenhoward. Mr. Duckett had been given the phone.

3 Q. Mr. Duckett who'd been in the closet?

4 A. Yes.

5 Q. And you said that he did, in fact, find out that the
6 victim had died that night and then he went back to sleep?

7 A. Right.

8 Q. I want to show what's been marked as State's Exhibits
9 203 and 204. Is this the way Mr. Roberts looked when you
10 met with him?

11 A. Yes, it is.

12 Q. And was that black eye significant to y'all?

13 A. It was. We knew, as he said, he had been assaulted
14 while engaged in this incident in the eye, which is evident
15 from the pictures. We had one of the lab personnel come
16 over and take pictures of him in my office to document
17 that.

18 Q. And as a part of your investigation, do you deal a lot
19 with the, with cell phones that are involved in crimes?

20 A. Yes, I do.

21 Q. And did you get the phones, the cell phone records for
22 the cell phone I showed you?

23 A. I did. They were through Cleartalk Wireless, which I
24 know was here earlier this week to testify. Particularly
25 -- that particular number was 803-363-2787. I requested

S. McDONALD - DIRECT EXAMINATION BY MS. WALKER

746

1 the call detail records and any text message detail that
2 they could provide.

3 Q. . . And did those records confirm other or collect -- did
4 those records confirm other information that you had
5 involving this murder?

6 A. Yes, they did. Specifically the text messages.

7 Q. And have you prepared a -- I say a Powerpoint
8 presentation that shows those text messages?

9 A. Right, yes. Very brief one, yes.

10 Q. And would that aid you in, in explaining those text
11 messages to the jury?

12 A. Yes.

13 MS. WALKER: Your Honor, may we approach?

14 (OFF-THE-RECORD BENCH CONFERENCE.)

15 THE COURT: All right, y'all step up the Powerpoint,
16 please.

17 MS. WALKER: Yes, sir.

18 THE COURT: Mr. Foreman, ladies and gentlemen, we're
19 going to finish the direct examination of this witness,
20 break for lunch, come back, and we'll, if everything goes
21 according to plans, we'll finish the testimony at 3:30,
22 4:00 this afternoon, and we will stay here and go over
23 everything that we have to go over so there'll be no
24 hesitation in the morning. When we come back, we can go
25 straight into arguments and the charge.

1 THE COURT: All right. We'll stand at ease until
2 about quarter -- about an hour now.

3 MS. WALKER, we'll see how good your technical skills
4 are in the next hour.

5 MS. WALKER: I'll work on it, Judge.

6 (OFF THE RECORD.)

7 THE COURT: All right, state ready to proceed?

8 MS. WALKER: Yes, sir, Your Honor.

9 THE COURT: Defense ready to proceed?

10 MR. SUTHERLAND: Yes, sir.

11 THE COURT: All right. Bring the jury in, please.

12 (THE JURY ENTERS AT 1:47 PM.)

13 THE COURT: Okay, ready to proceed, ma'am?

14 MS. WALKER: Yes, Your Honor.

15 THE COURT: And you've guaranteed it will work?

16 MS. WALKER: Yes. Yes, sir.

17 THE COURT: I'll hold you in contempt if it does not.

18 MS. WALKER: Your Honor, may the witness step off the
19 stand?

20 THE COURT: You may.

21 MS. WALKER: Lower the lights again. Is that good?
22 Can everybody see?

23 THE COURT: That's fine. Thank you, ma'am.

24 BY MS. WALKER:

25 Q. Captain McDonald, before we broke I think you said you

S. McDONALD - DIRECT EXAMINATION BY MS. WALKER

751

1 used cell phone records that have been already entered into
2 evidence to produce this Powerpoint?

3 A. That's correct.

4 Q. Can you describe for the jury what we're seeing here?

5 A. What you see here are the text message detail report
6 for Cleartalk Wireless, cell phone number (803)363-2787,
7 which is the Maurice Roberts cell phone that he identified
8 as being his phone. And I'm into the date where this
9 incident occurred. This phone was used by Vincent Nelson.

10 What you see here, you see a lot of gobblygook --
11 well, I'll try to explain it to you. This is the date and
12 the time. This stuff here really isn't relative but
13 1/25/2013, 2258 hours, which is 10:58 to 51 seconds, this
14 was an SMS message, which is a text message. This is the
15 phone it was originated from. This is the phone it went
16 to. I'm sorry. That's backwards. This is the phone it
17 originated from. It's Roberts's cell phone. It was sent
18 to this phone, which is Mr. Deshawn McClary's phone.

19 Q. And I know that this, this is not your language, but
20 will you please read for the jury the text message that was
21 sent from Maurice Roberts's cell phone that Vincent Nelson
22 had to the cell phone of Deshawn McClary?

23 A. He sent the text: It's fo niggas in here and they dat.
24 And the way this does this, everything is done twice. So,
25 this wasn't a secondary message. It was the same message.

1 It just read the thing twice for some reason on their
2 system.

3 Q. And at -- that was at 10:58?

4 A. That's correct.

5 Q. And at 11:08, did that cell phone send another message
6 to that same number?

7 A. It did. It said: Come on, I got two outside.

8 Q. And the next text message?

9 A. It's at 2311, which is 11:11 PM and 59 seconds. This
10 is Deshawn McClary's phone responding to the phone used by
11 Vincent Nelson saying: On the way.

12 Q. And, finally, what's the last text message that we
13 have up there?

14 A. 2312, another one is sent saying: Come on, I got two
15 outside.

16 Q. And did that information corroborate the rest of what
17 you learned throughout the course of the investigation?

18 A. It did. When we looked at the actual cell phone
19 itself, these messages were on there as well. This is
20 Maurice Roberts's cell phone that we recovered January 28th
21 when we're at the residence he identified as being his
22 phone, and the phone that was used by Vincent Nelson on
23 January 25th, that phone right there that she's holding up.

24 Q. Okay.

25 A. This is just documentation of how it appeared. I then

1 took the case off it in order to photograph it, and then
2 the next slide you'll see is some text messages.

3 This is Maurice Roberts's cell phone once again, cell
4 phone used by Vincent Nelson on 1/25/13. This is a text
5 message sent by Vincent Nelson to Deshawn McClary's phone,
6 just like we saw on the phone records. It's fo niggas in
7 here and they dat. 1/25/2013 at 10:58 and 41 seconds.

8 You see Small Head there. That is how Maurice had
9 Deshawn McClary's listed as his contact, in his contacts as
10 Small Head. This is Maurice Roberts's cell phone used by
11 Vincent Nelson again on the 25th. The text message sent
12 from Deshawn McClary's phone to Vincent Nelson where they
13 say: We're on the way, 600.

14 And once again one more from Vincent Nelson sent to
15 Deshawn McClary's phone: Come on, I got two outside.
16 1/25/2013 at 11:52 PM to Small Head, which is Deshawn
17 McClary in contacts, and that was the extent of the text
18 messages.

19 Q. Thank you, sir. Will you return back to the witness
20 stand?

21 After taking that, the statement and cell phone from
22 Maurice Roberts -- statement from Maurice Roberts and in
23 reviewing that cell phone, can you tell us what you did
24 next in your investigation?

25 A. Upon completion of the statement of Maurice, and

1 completion of the statements with Mr. Jwaun Duckett and
2 Vincent Nelson, obviously by this point, we knew Maurice
3 was a primary participant in this incident, and he was
4 charged with murder, two counts of attempted murder,
5 attempted armed robbery, and burglary first.

6 Q. And did you make contact with the, the other co-
7 defendants in this case as well?

8 A. We did. Over the course of the next day or two, the
9 very next day we were in contact with Demetrice James. We
10 got a call from his father actually. We'd been by there
11 later in the afternoon and had missed -- no one was at
12 home, and we got the call from his father, father, the
13 following morning saying he wanted to turn himself in, and
14 we had gotten search warrants and arrest warrants. So, we
15 did meet over at the residence, executed a search warrant,
16 and Mr. James was arrested.

17 Q. And are you a -- he was arrested at his residence?

18 A. Mr. James was, yes.

19 Q. And what about finally, I guess, Deshawn McClary?

20 A. Deshawn McClary was apprehended a few days later by
21 our fugitive team down in Orangeburg.

22 Q. The person who gave you the statement that, that we
23 went over earlier about bleaching the clothes, do you see
24 that person in the courtroom?

25 A. Yes. He's sitting at the defense table with a white

S. McDONALD - CROSS-EXAMINATION BY MR. SUTHERLAND

755

1 shirt and stripes next to his attorney.

2 MS. WALKER: Your Honor, may the record reflect that
3 he's identified the defendant? No further questions.

4 MR. SUTHERLAND: May it please the court?

5 CROSS-EXAMINATION BY MR. SUTHERLAND:

6 Q. Is there a -- Captain McDonald, how are you?

7 A. Good.

8 Q. Okay. Just go through a few things. Sort of the same
9 stuff. What was interesting that I, that I saw in the text
10 messages up here was Deshawn McClary's phone.

11 A. Uh-huh.

12 Q. He texted on the way, 600. Do you remember reading
13 that?

14 A. Right.

15 Q. Okay, and he has a tattoo, are you aware of that, on
16 his right shoulder or his left shoulder?

17 A. He does have at the tattoo with 600 on it, yeah. I'm
18 not sure which shoulder.

19 Q. Thank you. I mean, that's it for that part of it.

20 I want to talk to you about the statement. I heard
21 you testify on direct that Maurice was not in custody at
22 the time he got in the car with you and went to the
23 sheriff's department.

24 A. That's correct.

25 Q. Okay. How much time do you think elapsed between,

1 total, between your getting in the car with him and him
2 basically being put in the D cell for transport?

3 A. Probably two to two and a half hours.

4 Q. Okay, and when you took him down and you went through
5 -- I believe your testimony was that at first he was saying
6 that he was denying involvement in it?

7 A. He had no information on the murder or the incident at
8 all. We got a little snippet while at the residence when
9 we were asking some questions and where he volunteered
10 well, Vincent had his phone that night. That kind of set
11 the light bulb off: well, maybe he knows a little bit more
12 than what he's saying. So, that's why we asked him to come
13 to headquarters to talk about this a little further.

14 Q. Okay. Okay, and let's see. When he was sitting with
15 you, there were other investigators that were coming in
16 from other interview rooms?

17 A. Sergeant Isenhoward came in and out probably two or
18 three times during that time. I think Sergeant Lindler,
19 who was present, may have stepped out once or twice to get
20 further information for me as well.

21 Q. And was Vincent Nelson there?

22 A. Vincent Nelson was being interviewed by Major Smith
23 and Investigator Boland, and Sergeant Isenhoward was
24 interviewing Jwaun Duckett.

25 Q. Okay, and during your interview and an investigator

S. McDONALD - CROSS-EXAMINATION BY MR. SUTHERLAND 757

1 would come in, and would he just flat out say so and so
2 said that, or actually saying this, or would he just say
3 hey, the other guy's ---

4 A. He would come in, and I may step out with him briefly.

5 Q. Okay.

6 A. You know, just to see what information we had learned,
7 and as things started come together, the two statements we
8 were getting from Mr. Duckett and from Mr. Nelson seemed to
9 be in line with each other, and they were being separated,
10 they were -- had been separated totally, but they were
11 given similar type statements, which went against the
12 interest of Mr. Roberts obviously. So, that's when we
13 began to confront him with some of these issues that were
14 coming up, and he eventually gave the statement that I
15 published.

16 Q. Okay, and so it's you go out, you get information, you
17 come back in, and then you say look. Your buddies are over
18 here and they've saying X, Y, Z. Is that pretty much the
19 way that it went?

20 A. Something like that only, you know, we would, you
21 know, let on that we knew some, some more of the details
22 that he hadn't been honest with us about. And one thing we
23 stressed, when we sat down with this, I said, you know,
24 whatever you know about this, we need to be honest and up
25 front, and it's very typical, in these investigations, that

1 doesn't always occur initially.

2 Q. Sure. Sure.

3 A. But once we start confirming with facts that we do
4 know and they realize we know, often times they will start
5 to tell more of the truth once they realize they can't
6 bluff us or lie to us.

7 Q. Okay. When do -- would you tell him or would another
8 officer come in? When you said you would confront him with
9 the information, so do you -- you would say this person is
10 saying that this happened, so you need to go ahead and own
11 up ---

12 A. I may ---

13 Q. --- to us or ---

14 A. I may have said Jwaun says this, or I may have just
15 said we've learned from the other interviews that this
16 occurred, you know, this happened. You supposedly did
17 this, you know, that type thing, and we were engaging in
18 conversation about that.

19 Q. Okay, and ultimately you typed up the statement?

20 A. That's correct.

21 Q. Did he ask you to read it to him?

22 A. I read it to him without him asking me. Every time we
23 take a statement, not only as we're going through it, but I
24 confer with him to make sure I'm typing what he -- what his
25 response was accurately. Upon the completion of that

S. McDONALD - CROSS-EXAMINATION BY MR. SUTHERLAND 759

1 statement, I read it back in its entirety making sure --
2 and I tell them stop me if there's any anything incorrect
3 or we need to change.

4 We went through the entire statement. He never
5 stopped me; he never told me to change anything. After I
6 read it back to him, I then presented it to him for him to
7 read over before he signed it and I said if this is your
8 statement, then we don't need to change anything. You
9 know, go ahead and sign this as being your statement. He
10 agreed it was his substantially. He signed it in two
11 places on all the forms, and then I witnessed it and
12 Sergeant Lindler witnessed it as well.

13 Q. Okay. Did you interview him, or anything you remember
14 about maybe education background, or did you have any
15 information maybe he was in special education classes or
16 anything like that?

17 A. I have no information about that. My information was
18 he made it to the eleventh grade. He could read; he could
19 write. He wasn't under the influence of any drugs or
20 alcohol at the time we were speaking with him. He seemed
21 fully cognizant of what was going on, and he knew he was
22 there voluntarily.

23 Q. Okay, and you had testified on direct about the waiver
24 of rights form and reading the rights?

25 A. Correct.

1 Q. And I believe that you told him, or your direct
2 testimony was no one is holding a gun to your head?

3 A. When I, when I get to the word coercion on the, the
4 waiver of rights section, a lot of people don't, don't know
5 what coercion means. So, I always stop there and I ask
6 them do you know what coercion means, and he had some
7 hesitation like he didn't understand.

8 So, I said coercion is force, intimidation, anything
9 like that. I'm not putting a gun to your head to make you
10 talk today. I'm not, you know, withholding food from you
11 or anything like that, but I just went over, you know, what
12 coercion means, and he understood after I explained to him.
13 And I said no one is -- here today is coercing you, forcing
14 you to talk and he agreed no, he was there voluntarily.

15 Q. Okay. Okay. Thank you, but you did say I'm not
16 holding a gun to your head?

17 A. Correct.

18 Q. Okay. So, you had typed the statement up, and this is
19 how you all do statements at Richland County?

20 A. That is our policy to do a written statement, that's
21 correct.

22 Q. Have -- why not a tape recorder like Columbia Police
23 Department or video like Lexington and Kershaw? Why not an
24 actual recording rather than typing it up?

25 A. It's been our policy, as long as I've been an

S. McDONALD - CROSS-EXAMINATION BY MR. SUTHERLAND

761

1 investigator, that we take written statements, which
2 written statements are the truest form of a statement.
3 There's no mistaking, once it's put down on paper, what
4 it's meant and referred by it. It's reviewed at length
5 with the defendant or with the witness to make sure this is
6 the correct statement, and that's been our policy. We're
7 not equipped with the video cameras and the recording
8 equipment and all that it would take to do those type
9 things, and plus it's our policy. So, I have to follow
10 policy.

11 Q. Sure. Sure I understand. But a digital recorder or
12 something like that at CVS ---

13 A. That's, that's not our policy. I cannot record an
14 interview, no.

15 Q. Okay, and you just testified that the, the written is
16 the truest form?

17 A. That's correct.

18 Q. As opposed to videotaping someone talking or audio
19 taping someone talking?

20 A. In our review of the way these statements are taken,
21 it is the truest form to put the written word down. It
22 will not change. It will not degrade. It will not be
23 destroyed by being near a magnet, things like that that --
24 videotapes and audiotapes and things like that. There is
25 that possibility, and when this is down, several copies are

1 made. It's scanned so we have a permanent record of it.

2 Q. Okay. Okay. Let me, me make sure that that's it.

3 Oh, the lineups that you showed people where they picked
4 people, they picked picture number 6, right, other than the
5 one from SLED?

6 A. Specific?

7 Q. Okay.

8 A. Do you have specific ones?

9 Q. Okay. Faust, McDonald to Troy Scott of J School,
10 Vincent Nelson.

11 A. I don't have that in front of me. So, I don't know
12 that.

13 Q. Does that sound right?

14 A. It could be.

15 Q. Okay.

16 MR. SUTHERLAND: Your Honor, may I get the...

17 Q. Okay, I have State's Exhibit Number 7 here, which is -
18 - Investigators Faust, McDonald showed me six pictures,
19 okay, and this is Troy Scott. Do you recognize that?

20 A. Yes, I do.

21 Q. And does picture number 6 depict ---

22 A. The bottom right is the pick. I don't see 1, 2, 3, 4,
23 5, 6 on here, but I see ---

24 Q. Yeah, well, bottom, bottom right.

25 A. Bottom right.

S. McDONALD - REDIRECT EXAMINATION BY MS. SIMPSON 763

1 Q. Some of them say 6. Some of them have those numbers
2 on them.

3 A. This one is actually identified by the picture number
4 not by any position, but ---

5 Q. Bottom right where the 6 is on some of them. Yeah,
6 same one. Okay. All right.

7 A. There's no, there's no 6 on that particular one, no.

8 Q. Certainly. Certainly. Appreciate it.

9 MR. SUTHERLAND: No further questions.

10 THE COURT: Redirect?

11 MS. WALKER: Yes, Your Honor.

12 REDIRECT EXAMINATION BY MS. WALKER:

13 Q. Captain McDonald, he asked you questions about a text
14 message that said 600 is on the way.

15 A. Yeah, he asked me a question about that. I think the
16 text message read: On the way, 600.

17 Q. Who was Deshawn McClary with when 600 was on the way?

18 A. Demetrice James and Deshawn McClary. I'm sorry --
19 Demetrice James, Maurice Roberts.

20 Q. Thank you, sir.

21 MS. WALKER: I have no further questions.

22 THE COURT: All right. You may step down.

23 (THE WITNESS EXITS THE STAND.)

24 MS. CAMPBELL: May it please the court? State calls
25 Investigator Boland.

1 JAMES BOLAND, BEING DULY SWORN,
2 TESTIFIES AS FOLLOWS:

3 CLERK OF COURT: Have a seat in the witness stand,
4 please. State your name for the record.

5 WITNESS: James Boland.

6 DIRECT EXAMINATION BY MS. CAMPBELL:

7 Q. Investigator Boland, where are you employed?

8 A. Richland County Sheriff's Department.

9 Q. What do you do there, sir?

10 A. I'm an investigator with the criminal investigator
11 division.

12 Q. How long have you been in law enforcement?

13 A. Seventeen years.

14 Q. I want to turn your attention back to January the 25th
15 of 2013. Did you become involved in the investigation of
16 the murder that occurred on [REDACTED] Drive?

17 A. Oh, I did, yes, ma'am.

18 Q. And how did you become involved, sir?

19 A. I was working evening shift, much like Sergeant Faust
20 indicated earlier.

21 Q. Speak up a little bit.

22 A. Excuse me. I'm sorry.

23 Q. I'm sorry. It's just the ---

24 A. Like Sergeant Faust spoke of earlier, he was the
25 evening shift supervisor. I was on his team. I got a call

J. BOLAND - DIRECT EXAMINATION BY MS. CAMPBELL

765

1 from -- I believe it was the desk sergeant trying to make
2 contact with the supervisor in that particular area of
3 Columbia in reference to a shooting incident at an incident
4 location.

5 Q. Once you had gotten the information, where did you
6 proceed?

7 A. I then went to [REDACTED].

8 Q. And approximately what time was it when you arrived
9 there?

10 A. Approximately 11:30 PM. Excuse me. 11:50 PM.

11 Q. And on the way to the [REDACTED] Drive where the
12 shooting actually occurred, did you become aware of some
13 information, something about a stop near the scene?

14 A. Yes. One of our K-9 officers had been working the
15 area and had noticed a car coming up -- I believe it was
16 McQueen Street, which is one block over from [REDACTED]
17 He actually conducted a traffic stop on McCrae Street.
18 McCrae Street and [REDACTED] are actually perpendicular
19 intersections from E.E. Taylor Elementary School.

20 Q. And the people that were stopped in that car, at one
21 point were they actually placed in lineups and shown to at
22 least one of the victims?

23 A. Yes. As Sergeant Faust indicated earlier, I was at
24 the scene. I had got the information regarding a Jonathan
25 or J School was involved in the shooting incident on

1 [REDACTED] I also learned about the suspects involved
2 in the [REDACTED] -- their physical description. Several
3 of the individuals in the car that had been stopped by the
4 K-9 officer had those physical descriptions about them that
5 night. So, we went to great length to learn who they were
6 and if they were involved or not.

7 Q. During the course of the investigation, I believe
8 Investigator Faust showed Mr. Troy Scott, I believe,
9 State's Exhibits 3, 4, and 5. Is that correct?

10 A. Yes, that's correct.

11 Q. And was Mr. Scott able to identify any of those people
12 as being involved in the crime which we're here today
13 about?

14 A. No, none of them were picked.

15 Q. And during the course of your investigation, I believe
16 there was also testing done on these individuals as well?

17 A. Yes.

18 Q. And in the course of your investigation, were you able
19 to eliminate those three individuals stopped at the scene
20 as being involved in anyway?

21 A. Yes. It was very cold that night, and I remember this
22 night very well because I was out there in that cold for
23 several hours trying to discern whether or not these
24 individuals were a part of this or not. But after Sergeant
25 Faust was able to speak with Troy Scott and another witness

J. BOLAND - DIRECT EXAMINATION BY MS. CAMPBELL

767

1 at headquarters, we then discerned that they were not
2 involved.

3 Q. And that was corroborated during the course of your
4 investigation?

5 A. Correct.

6 Q. Moving on to when you arrived at [REDACTED] Drive,
7 did you meet with deputies there at the scene?

8 A. I did.

9 Q. And who all was there by the time you got there?

10 A. I met with Deputy Sullivan who was on scene. He may
11 have been the -- one of the supervisors out there. I know
12 that Deputy Grant was out there. Investigator Beeler and
13 Investigator Woods from our Crime Scene Unit were also
14 present.

15 Q. And by the time you got there, were any of the victims
16 that had been injured in this still at the scene, or had
17 they been transported to the hospital?

18 A. No. There had been three victims that were
19 transported.

20 Q. While at the scene, did you take -- obtain some
21 information about the possible identity of one of the
22 people involved?

23 A. I did. I learned that, that there was a J School that
24 the witnesses at the scene knew him by that name there.

25 Q. And was there some additional information about where

1 he might possibly reside that was provided to you that
2 night that you followed up on?

3 A. Yes. I was directed to meet with Investigator Bass.
4 He had earlier transported the witnesses to headquarters to
5 talk to Sergeant Faust. I was then directed by Sergeant
6 Faust to travel over to Broad River Road, further up Broad
7 River Road in the Seminole Road area to locate possible
8 addresses connected with J School.

9 Q. And were there a number of addresses that you obtained
10 in that area on Broad River?

11 A. Yes. We particularly were interested in 203, 224, and
12 226, and again with that information kind of narrowed the
13 search down to what part of Stucowa we wanted to look at.
14 So, those houses were in that close proximity of where we
15 had been directed to.

16 Q. And that would later prove of some significance in
17 this investigation?

18 A. Yes, ma'am.

19 Q. After getting those addresses, this street numbers
20 actually, did you then return to headquarters?

21 A. I did.

22 Q. And once back at headquarters, were you able to get
23 additional information about this person known as J School?

24 A. Yes. We -- I learned from Sergeant Faust that while I
25 was still at the scene, he had spoken with the witnesses

J. BOLAND. - DIRECT EXAMINATION BY MS. CAMPBELL

769

1 back at headquarters, and they were able to access Facebook
2 and get a, a picture of this J School through the -- also
3 date of birth and then learning his name was Vincent
4 Nelson, Jr.

5 Q. And let me back up for a second to -- while at the
6 crime scene itself that night, you didn't do actually any
7 of the processing yourself, did you?

8 A. No, I did not.

9 Q. That's not your role?

10 A. No, I -- most of my time that night was out there
11 filtering information regarding the three individuals in
12 the car. Again, one of the persons in the car was named
13 Jonathan. So, when you got a Jonathan on scene fitting a
14 physical description similar to that at the incident, and
15 all we know is J School is involved, we want to be very
16 careful and not to, to let those people go on their own.

17 Q. And while you were at the crime scene, did you observe
18 a vehicle that investigator, I believe Rainsford, processed
19 there at the scene?

20 A. I did. There was a...

21 Q. State's Exhibit 54, does that show part of that
22 vehicle?

23 A. Yes, it shows the front of a -- looks like a red
24 Toyota Tundra parked in the driveway.

25 Q. And he actually processed that automobile, I believe,

1 was actually lifted some prints?

2 A. Yeah. I think he returned the next morning and when
3 the scene was still held by us with Sergeant Richards.

4 Q. And, however, during the course of your investigation,
5 was there any information that anybody had ever touched
6 that car?

7 A. No..

8 Q. And after y'all were able to identify J School as
9 Vincent Phillip Nelson that night, approximately what time
10 was it when you actually went home?

11 A. It was between 6:00 and 6:30 AM the morning of the
12 26th.

13 Q. That next day, which would actually be the daytime
14 hours of the 26th, did you return to participate in the
15 investigation?

16 A. I did. I returned back to headquarters approximately
17 1:30 PM.

18 Q. Once you got to headquarters, what happened?

19 A. I got to headquarters, and at the time Captain
20 McDonald was in his office, and he was conducting some
21 database searches to try to see if we can get some more
22 information on this Vincent Nelson.

23 Q. There at headquarters that day, did you make contact
24 with family members for Brandon Jones?

25 A. I did. I spoke with a paternal grandfather, Mr.

J. BOLAND - DIRECT EXAMINATION BY MS. CAMPBELL

771

1 Prealeau.

2 Q. And you can't say what he said, but did you -- was he
3 able to give you some information?

4 A. Yes.

5 Q. That day did you and Investigator Faust also meet with
6 a Mr. Troy Scott and Mr. William Liberty?

7 A. Yes.

8 Q. And Mr. Liberty's name has come up. Was he actually
9 there at the scene the night when the, the events occurred?

10 A. No, he was not.

11 Q. Was he -- what, what was he trying to do? Was he
12 trying to help, or hurt, or what?

13 A. Mr. Liberty, based on the descriptions that were given
14 by Troy as to who was involved in this thing at the house,
15 based on that description of the individuals, they then
16 tried to deduce who were possibly known acquaintances of
17 Mr. Nelson that would fit that description.

18 Q. That afternoon did you meet with Cari Pearson as well
19 as Mr. Scott?

20 A. I did.

21 Q. And did you actually take a statement from Ms.
22 Pearson?

23 A. I did.

24 Q. And was she also shown some lineups that day? You
25 can't say what she said.

1 A. Yes, she saw two photo lineups.

2 Q. And you're referring to your case notes in this case?

3 A. Right.

4 Q. Okay, and was she able to positively identify one
5 person out of those two lineups?

6 A. She did.

7 Q. And who was that?

8 A. Vincent Nelson.

9 Q. Later that evening, did you also meet with Joshua
10 Williams and Troy Scott?

11 A. I did.

12 Q. Without saying what they said, were you able to get
13 additional information from them?

14 A. Yes.

15 Q. The next day did your investigation continue?

16 A. Yes.

17 Q. On the 27th, what did you do?

18 A. Sergeant Faust and I traveled over back to the scene
19 again because the layout of the house was really difficult
20 in trying to convey the layout of the house, if you will.
21 So, I felt it would be necessary that before we went any
22 further, I think it would be best if we -- everybody would
23 know, who obviously had been involved in it thus far, was
24 familiar with it. And so we went back and we -- I showed
25 Sergeant Faust the scene.

J. BOLAND - DIRECT EXAMINATION BY MS. CAMPBELL

773

1 Q. And that would have been on that Sunday. Is that
2 correct?

3 A. That's correct.

4 Q. The next Monday morning, a meeting occurred?

5 A. Yes. Supervisors, I met with all the supervisors.

6 Q. And that include Major Smith?

7 A. It would -- it is, yes.

8 Q. Captain McDonald?

9 A. Yes.

10 Q. And other people, I believe Sergeant Lindler?

11 A. Yes.

12 Q. And at that point, what decisions were made?

13 A. We decided that we had enough to draft a search
14 warrant, procure a search warrant for the address
15 associated with Vincent Nelson at [REDACTED].

16 Q. And that's the same area where you had initially been
17 directed to?

18 A. Correct.

19 Q. And you have just narrowed it down?

20 A. Correct.

21 Q. So, you got a search warrant for that address?

22 A. Correct.

23 Q. And is that proper protocol before trying to enter
24 someone's house --?

25 A. Yes.

1 Q. --- in a search for evidence?

2 A. Right.

3 Q. Did you also obtain any arrest warrants based on just
4 the information you had that Monday the 28th?

5 A. Yes.

6 Q. And who did you ---

7 A. I got ---

8 Q. --- get warrants on?

9 A. I signed a warrant for murder and burglary first on
10 Vincent Nelson.

11 Q. And within a few days after that, did you follow up
12 with Vincent Nelson some more on this?

13 A. Yes.

14 Q. And would those be for the remaining charges that
15 we're here about today?

16 A. Yes.

17 Q. At that point, was anyone in custody?

18 A. No.

19 Q. Once you had gotten the arrest warrants as well as the
20 search warrants for [REDACTED], what did you do?

21 A. We went -- we -- myself, McDonald, Lindler,
22 Isenhoward, Investigator Tanner, who had been assigned to
23 assist, all traveled over to [REDACTED].

24 Q. And once you got to [REDACTED], what did you learn?

25 A. There was no one at the residence, and as we were

J. BOLAND - DIRECT EXAMINATION BY MS. CAMPBELL

775

1 leaving, I believe Sergeant Isenhoward was flagged down by
2 an individual that said that a resident associated with
3 [REDACTED] would be coming back to that address to
4 assist us in entering the home.

5 Q. And, in fact, did someone come back to that residence
6 that had custody over it?

7 A. Yes.

8 Q. Or was living there?

9 A. Yes.

10 Q. And who was that?

11 A. Amanda Green.

12 Q. And did you ask for any type of permission to enter
13 that house?

14 A. Yes. She gave consensual search of, of the home.

15 Q. And were you able to, after talking to her, gather
16 additional information as to possible whereabouts of
17 Vincent Nelson?

18 A. Yes. She directed us over toward Broad River Terrace,
19 which is a female residence that she knew that would be an
20 acquaintance with Mr. Nelson.

21 Q. And what was that female's name?

22 A. Sierra Nathan.

23 Q. Once you had searched the [REDACTED] residence and gotten
24 the additional information, where did you go?

25 A. We then traveled to Broad River Terrace, [REDACTED]

1 [REDACTED]. Ms. Nathan was not home, but we did make contact with
2 her sister, and she gave us consent to just search the
3 residence, make sure Mr. Nelson wasn't there.

4 Q. And, in fact, was he not there?

5 A. No, he was not.

6 Q. That day did you also -- were you also aware of
7 another possible address associated with Vincent Nelson?

8 A. Yes.

9 Q. And what was that address, sir?

10 A. That would be Marlboro, [REDACTED], [REDACTED]

11 [REDACTED]

12 Q. [REDACTED], and what's the name of that apartment
13 complex?

14 A. That would be Hammond Village.

15 Q. And apartment [REDACTED] ultimately did you learn -- and at
16 that time, did you know whose residence that was?

17 A. No, I did not.

18 Q. And ultimately did you learn whose residence was --
19 that was?

20 A. That was Mr. Roberts's address.

21 Q. The defendant here today?

22 A. It is.

23 Q. And how were you able to associate Vincent Nelson with
24 that address back on January the 14th of 2013?

25 A. Database searches on Vincent Nelson.

J. BOLAND - DIRECT EXAMINATION BY MS. CAMPBELL

777

1 Q. And what type of database search, search on Vincent
2 Nelson?

3 A. When police reports are filed with our agencies, they
4 are hopefully sometimes submitted in a timely manner to a
5 database to which, if something happens in Charleston and
6 that information is entered into the database, and if I put
7 that same name or address or anything associated with it,
8 that would pop up in that database. And that's where we
9 learned this, another address associated with Vincent
10 Nelson.

11 Q. And when you reviewed that report associating Vincent
12 Nelson with the [REDACTED] apartment at Hammond Village, was
13 another name at which time brought to your attention?

14 A. Yes.

15 Q. And whose name was that?

16 A. Deshawn McClary.

17 Q. And at that point, did you have any knowledge that
18 either Maurice Roberts or Deshawn McClary were involved?

19 A. No. We were going there to look for Mr. Nelson.

20 Q. Once you got that information, where did you go?

21 A. We then traveled to [REDACTED] Hammond Village.

22 Q. Once there, what happened? What did you do and what
23 happened?

24 A. Well, honestly most apartments have back doors. So,
25 myself and Investigator Tanner covered the rear entrance or

1 rear door while other investigators went to the front door
2 to make contact.

3 Q. And once inside -- who was inside? Was Captain
4 McDonald one of the ones that went in the front?

5 A. I believe he did enter, yes.

6 Q. And who was actually located in the home that day?

7 A. By the time I came back around the outside of the
8 apartment building, I had learned that they had located Mr.
9 Nelson. He was escorted out. He was then direct --
10 directed to my car, and then also they were saying -- they,
11 they actually brought two individuals out. I was with
12 Nelson. I didn't know who these other two people were.

13 Q. Later did you learn their identities?

14 A. I did.

15 Q. Who were they?

16 A. Maurice Roberts, Jr., and Jwaun Duckett.

17 Q. And at that point, who was the only one of those three
18 that was under arrest?

19 A. Mr. Nelson.

20 Q. Mr. Nelson?

21 A. Uh-huh.

22 Q. You mentioned that Mr. Nelson was then placed in your
23 vehicle?

24 A. Correct.

25 Q. And were Mr. Duckett and Mr. Roberts, did they also

J. BOLAND - DIRECT EXAMINATION BY MS. CAMPBELL

779

1 agree to come down and talk separately?

2 A. I had no interaction between Mr. Duckett or Mr.
3 Roberts on that -- at that time.

4 Q. Okay, but were they transported to headquarters?

5 A. Yes.

6 Q. And that would have been Captain McDonald that would
7 have done that?

8 A. Correct.

9 Q. Once everyone is transported back to headquarters on
10 Two Notch Road, were interviews taking place?

11 A. Yes. Major Smith and I interviewed Vincent Nelson.

12 Q. Prior to interviewing Mr. Nelson, did you advise him
13 of any rights?

14 A. He was advised, yes.

15 Q. And did he agree to talk to you?

16 A. He did.

17 Q. Did he understand his rights?

18 A. He did.

19 Q. And that day did he give a statement?

20 A. He did.

21 Q. And you can't say what he said, but was that statement
22 reduced to writing as is your protocol?

23 A. It was.

24 Q. Did he have the opportunity to review it?

25 A. Yes.

1 Q. And did he actually sign off on that statement?

2 A. Yes.

3 Q. That day Mr. Roberts was also interviewed?

4 A. Yes.

5 Q. And you didn't actually participate in that, did you?

6 A. No, I did not.

7 Q. As well as Mr. Duckett?

8 A. Yes.

9 Q. As a result of those interviews, did y'all develop
10 some more lineups?

11 A. Yes.

12 Q. And what lineups did y'all develop?

13 A. Two separate lineups were drafted to include Deshawn
14 McClary and Demetrice James.

15 Q. Based on that additional information y'all got on the
16 28th, having interviewed Mr. Nelson, Mr. Roberts, and Mr.
17 Duckett, did you obtain additional warrants in the case?

18 A. Yes.

19 Q. And at that point on the 28th, after talking to those
20 two people, who was placed under arrest as a result of his
21 statement?

22 A. On the 28th?

23 Q. Uh-huh.

24 A. Maurice Roberts.

25 Q. Maurice Roberts, the defendant?

J. BOLAND - DIRECT EXAMINATION BY MS. CAMPBELL

781

1 A. Yes.

2 Q. And that was before you'd even had the opportunity to
3 talk to either Mr. James or Mr. McClary?

4 A. Correct.

5 Q. The next day did you also get warrants for those two
6 individuals?

7 A. Yes.

8 Q. Did you make any attempts to try to find Demetrice
9 James?

10 A. Yes.

11 Q. Where did you go?

12 A. We went to [REDACTED]. We attempted to make
13 contact. There's no one home.

14 Q. Okay, and did you ever confirm that that was his
15 actual address for him?

16 A. Yes.

17 Q. And later that day, did you obtain a search warrant
18 for that residence?

19 A. Yes.

20 Q. That day did you get some information from Demetrice
21 James's father?

22 A. Yeah. I had gotten word that Mr. James's father had
23 phoned the sheriff's department.

24 Q. At that point what did y'all do?

25 A. We then traveled over River Drive.

1 Q. And when you got there, who was there?

2 A. Mr. James was there.

3 Q. Was he taken into custody at that point?

4 A. He was.

5 Q. Was he served with his arrest warrants?

6 A. He was.

7 Q. That day did you actually conduct an interview of
8 Demetrice James?

9 A. I did.

10 Q. Prior to him being interviewed, what, if any, rights
11 was he advised of?

12 A. His Miranda rights.

13 Q. And did he indicate he understood his rights?

14 A. Yes.

15 Q. And did he indicate if he wanted to talk to you?

16 A. Yes.

17 Q. And at any point when we're talking about these advice
18 of rights and everything, before you talk to someone, would
19 you promise him anything?

20 A. No.

21 Q. Did you threaten him in anyway?

22 A. No.

23 Q. And was he voluntarily talking with you?

24 A. Yes.

25 Q. You can't say what he said to you, but did he then

J. BOLAND - DIRECT EXAMINATION BY MS. CAMPBELL

783

1 give a statement on his versions of events?

2 A. He did.

3 Q. So, at this point you got statements from -- who all
4 has been charged in this case?

5 A. Vincent Nelson, Maurice Roberts, and Demetrice James.

6 Q. The next day, on January the 31st, did you go down to
7 serve additional warrants on Vincent Nelson?

8 A. Yes, we did.

9 Q. And while there, did you talk to Mr. Nelson again?

10 A. Yes. After we had obviously took -- spoken with Mr.
11 James and gotten his side of the story, then I wanted to
12 again reinterview Mr. Nelson and see if he had additional
13 information.

14 Q. Is that unusual in an investigation for people to not
15 be totally forthcoming?

16 A. No, it's quite common.

17 Q. And at that point, was he advised of his rights?

18 A. He was.

19 Q. And, again, did he agree to talk to you?

20 A. He did.

21 Q. And did he give you another statement?

22 A. Yes, he did.

23 Q. I want to turn your attention to February the 1st of
24 2013. Did y'all respond back to one of the residences?

25 A. Yes. Investigator Tanner and myself went back over to

1 Marlboro Street, the residence of Mr. Roberts.

2 Q. What was the purpose of y'all going back to that
3 residence?

4 A. To look for possible clothing or anything associated
5 with this case.

6 Q. Once you got there, what did you initially observe?

7 A. In front of the -- of Building 15 was a large rollback
8 container much like a dumpster, if you will. It was opened
9 on the top. It appeared that -- I think furniture or trash
10 or something was being taken out of an apartment.

11 Q. Did you locate anything that you collected then?

12 A. Right. Before I got to the apartment, trying to make
13 contact ---

14 THE COURT: Hold on one second, please.

15 (A PAUSE.)

16 BY MS. CAMPBELL:

17 A. Before I got to the apartment to make contact, I
18 stepped up onto the, the container to see if there was
19 anything in there that might be of any value, and I did
20 locate a camouflaged jacket.

21 Q. And did you collect that that day?

22 A. Yes.

23 Q. Did you also make contact with any inhabitants of the
24 house at 1503 Hammond Village?

25 A. Yes, we made contact with Vanessa Roberts.

J. BOLAND - DIRECT EXAMINATION BY MS. CAMPBELL

785

1 Q. And who is she?

2 A. Maurice's mother.

3 Q. And what, if anything, did she allow y'all to do?

4 A. She signed a consent to search form for us to search
5 the apartment.

6 Q. And at that point, once she had signed off with a
7 consent to search, which is necessary before y'all go in,
8 right?

9 A. Correct.

10 Q. Did y'all start searching the area?

11 A. We did.

12 Q. And what did you find?

13 A. We put -- we located several different pieces of
14 clothing: a black puffy jacket, a pair of camouflaged
15 pants. We got a black hoodie zip up had bleach stains,
16 what appeared to be bleach stains on it.

17 Q. I'll get back to that in a moment. While you were
18 there at the residence searching, however, did something
19 happen that caused you to terminate your search?

20 A. Yes. Maurice's father came home. Was very upset that
21 we were there. He, he began cursing, became very
22 belligerent to us, was actually yelling at Ms. Roberts for
23 letting us into the home. We told him that he -- he then
24 told us to leave. We told him to calm down, and then we,
25 we left, taking the items that we had collected.

- 1 Q. Now I'm showing you what's been marked as State's
2 Exhibit Number -- it's got an exhibit number on it. 37.
3 Do you recognize this box of items?
- 4 A. Yes.
- 5 Q. And what are those, sir?
- 6 A. Those would be the items I collected on February 1st.
- 7 Q. And I'm going to do this all at once. When Maurice
8 Roberts was taken into custody, did you also collect any
9 clothing from him at that time?
- 10 A. Yes. We took his clothing.
- 11 Q. And I show you State's Exhibit, I can't read it, 223.
12 Do you recognize that?
- 13 A. Yes.
- 14 Q. And is that the clothing that you collected from him
15 when he was arrested?
- 16 A. May I see the date? Yes, January 28th.
- 17 Q. But State's Exhibit 37, that's the clothing you found
18 in your search at the home later?
- 19 A. Yes.
- 20 Q. As far as items you collected, you mentioned a camo
21 jacket?
- 22 A. Yes.
- 23 Q. And the -- where was that located?
- 24 A. In the rollback container.
- 25 Q. And I show you State's Exhibit 207. Do you recognize

J. BOLAND - DIRECT EXAMINATION BY MS. CAMPBELL

787

1 that?

2 A. Yes.

3 Q. And is that the other item you collected that day when
4 you went back when Ms. Roberts initially let you in?

5 A. Yes.

6 Q. Specifically, is there any part of Maurice's statement
7 where he talked about clothing he wore that day?

8 A. Yes, ma'am.

9 Q. And specifically what description of clothing were you
10 looking for?

11 A. We were particularly interested in the, the white
12 hoodie with the hole to the left shoulder that you talked
13 about how he had accidentally bleached it yesterday when he
14 was doing the dishes. Also he indicated he had on brown
15 camouflaged pants.

16 Q. The items that you found at the home, if you could
17 just pull those out. Was there anything that you found
18 that would corroborate -- and again, these all come from
19 Demetrice? Not Demetrice. Maurice Roberts's house?

20 A. This is a black one -- it's a black, one could argue,
21 that -- a puffy style jacket. It was located in the home.
22 This would be the brown, black, and green camouflaged pants
23 that was collected from the home.

24 Q. And again, when you're collecting these items, you
25 don't know if they have any significance or not, do you?

1 A. Not at that time, no.

2 Q. However, when you collected the jacket you're about to
3 show them, was it significant?

4 A. I think so, yes. This is a black zip-up fleece type
5 jacket with a hole near the left shoulder, what appears to
6 be bleach marks on the jacket as well.

7 Q. In your experience as an investigator over major
8 crimes, do people sometimes use bleach to clean up?

9 A. Yes.

10 Q. And is it effective?

11 A. Yes.

12 Q. After conducting that search and recovering those
13 items, where did you go?

14 A. After Investigator Tanner and I left Maurice's house,
15 I wanted to tank -- take Tanner back by the incident
16 location so he too could be better versed in the scene. We
17 also met with two individuals at the house.

18 Q. While there, did you show some lineups to any of the
19 victims in this case?

20 A. Yes.

21 Q. Who?

22 A. Trey Scott and Troy Scott were shown photo lineups.

23 Q. And I show you State's Exhibit Number -- were they
24 shown together or separate or how did that occur?

25 A. No. Investigator Tanner showed one lineup to Trey

J. BOLAND - DIRECT EXAMINATION BY MS. CAMPBELL

789

1 Scott, and I showed Troy Scott a photo lineup.

2 Q. And were they separated when this happened?

3 A. Yes.

4 Q. And what's the purpose in that?

5 A. So it won't contaminate the purity of the, the lineup
6 or the accurate positive pick of one, and to make sure that
7 each individual was independent decision making the choice
8 in the lineup.

9 Q. And at any time do you tell them look at this, it's
10 going to be Maurice Roberts, or use any names or anything
11 of that sort?

12 A. No. Typically I say to them I'm going to show you a
13 series of pictures. In these photographs may or may not be
14 the person associated with this incident.

15 Q. And you didn't tell them what role the person would
16 have that they're looking at or anything?

17 A. No.

18 Q. I show you State's Exhibit Number 9. Do you recognize
19 that one?

20 A. Yes. This is a photo lineup affidavit that I signed
21 after showing the photo lineup to Troy Scott.

22 Q. And was Troy able to identify anyone?

23 A. Yes, he did.

24 Q. And who did he identify?

25 A. Maurice Roberts.

1 Q. And he indicated that was number 612408?

2 A. Yes.

3 Q. And the same lineup, I believe, was shown to -- when
4 was that done?

5 A. Investigator Tanner showed Trenton Scott the photo
6 lineup including Maurice Roberts. He, too, picked Maurice
7 Roberts in that lineup.

8 Q. And to your knowledge, did anyone tell them who to
9 pick, influence them in any way?

10 A. Not at all.

11 Q. That day did you also get information about the
12 whereabouts of Deshawn McClary?

13 A. Yes. We learned that McClary had been apprehended by
14 the State Law Enforcement Division down in Orangeburg
15 County.

16 Q. And what happened once he was apprehended?

17 A. He was brought to our headquarters on Two Notch Road,
18 where I then proceeded to attempt to interview him.

19 Q. And the interview was not actually done that day. Is
20 that correct?

21 A. Well, the -- I, I spoke to him.

22 Q. You spoke to him briefly?

23 A. Briefly, yeah. I mean, he didn't give a statement
24 that day.

25 Q. He didn't want to give a statement that day?

J. BOLAND - DIRECT EXAMINATION BY MS. CAMPBELL

791

1 A. No. He -- I spoke to him about the, the incident and
2 how he was alleged -- reported by the co-defendants to be
3 involved in it, and he, he didn't want to talk to us.

4 Q. But on February the 6th, some five days later, did you
5 receive information again about Deshawn McClary?

6 A. Yes.

7 Q. And tell the jury about that.

8 A. We were contacted by investigators at the Columbia
9 Police Department that McClary was in their custody talking
10 to them about a separate matter, and that though he did not
11 want to talk to city investigators about that particular
12 incident, we were asked -- excuse me. They were asked by
13 McClary to then call us so we could go down there and talk
14 to McClary about the incident that happened on

15

16 Q. Once you received that information, did you make
17 contact with Mr. McClary?

18 A. Yes. Tanner and myself traveled to the -- their
19 office on Devine Street and met with McClary.

20 Q. Once there, what, if any, rights did you advise him of
21 prior to talking to him?

22 A. He was advised of the same Miranda rights that he was
23 advised five days earlier.

24 Q. And at that point, did he indicate whether or not he
25 wanted to talk to you?

1 A. He did.

2 Q. And did he sign off on his waiver of rights?

3 A. He did.

4 Q. And did he agree to talk to you?

5 A. Oh, yeah.

6 Q. And did you promise anything or force him to talk to
7 you at that time?

8 A. No.

9 Q. And once there, you can't say what he said, but did he
10 give you a statement?

11 A. He did.

12 Q. And finally on February 7th, did you then go back to
13 the Roberts' residence to execute the search warrant?

14 A. Yes.

15 Q. Don't say what you found.

16 A. Okay. No, I won't. But yes, we, we traveled back
17 over there and.

18 Q. And searched for further evidence?

19 A. Yes.

20 Q. Nothing of significance?

21 A. Right.

22 Q. Okay. To this trial. As part of your investigation,
23 is some evidence usually sent away for DNA testing?

24 A. Yes.

25 Q. And to that event, do you also collect what's known as

J. BOLAND - DIRECT EXAMINATION BY MS. CAMPBELL

793

1 buccal swabs or known DNA samples from different people?

2 A. Yes.

3 Q. And I'm going to show you State's Exhibits 25, 26, 23,
4 and 22. Were these all buccal swabs that were collected by
5 you?

6 A. Yes. This a buccal swab retrieved from Trent Scott,
7 Deshawn McClary, Demetrice James, and Joshua Williams.

8 Q. And those were actually collected by you?

9 A. Yes.

10 Q. In addition to that, did Sergeant Lindler also collect
11 buccal swabs from the defendant himself?

12 A. He did.

13 Q. And that would be Maurice Roberts?

14 A. Yes.

15 Q. Finally, State's Exhibit 24 and 205, were these buccal
16 swabs from Troy Scott in this case?

17 A. Yes.

18 Q. And those were actually collected?

19 A. Yes.

20 Q. And when y'all collect buccal swabs, what precautions
21 do you take to make sure that the integrity of the actual
22 swab itself is intact?

23 A. You wear rubber gloves much like I did before I took
24 the clothes out of the box. We, we either -- or put the
25 gloves on your hands obviously, and we explain to them what

1 the, what the process is so there's no fumbling, no
2 questions. The swab is then taken out of the wrapper by
3 the subject, and then they actually insert it into the box
4 container as well.

5 Q. Okay.

6 MS. CAMPBELL: Your Honor, at this time I believe 24
7 is not in evidence yet. We move that in, and the rest are
8 in evidence.

9 MR. SUTHERLAND: And I have no objection, Your Honor.

10 (SWAB MARKED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER
11 24.)

12 BY MS. CAMPBELL:

13 Q. During the course of your investigation, different
14 defendants in this case indicated different -- they, they
15 had different roles?

16 A. Yes.

17 Q. Is it unusual, in your experience, for a defendant to
18 either switch his role, to minimize it?

19 A. Not unusual at all.

20 Q. Or to try to point the finger at somebody else?

21 A. Yeah. They, they either minimize what they did or
22 then just project what actually happened on somebody else.

23 Q. In this case, how many people were charged with
24 murder, burglary, robbery, and attempted murder in this
25 case?

J. BOLAND - CROSS-EXAMINATION BY MR. SUTHERLAND.

795

1 A. Four people.

2 Q. And how can all four be charged?

3 A. Hand of one, hand of all.

4 MS. CAMPBELL: Thank you.

5 MR. SUTHERLAND: Please the court, sir?

6 THE COURT: You through, Ms. Campbell?

7 MS. CAMPBELL: Yes, sir.

8 THE COURT: All right.

9 MR. SUTHERLAND: Thank you.

10 CROSS-EXAMINATION BY MR. SUTHERLAND:

11 Q. Sir.

12 A. Hey.

13 Q. Going to sort of hopscotch around a little bit. I was
14 thinking that you testified about was that it's not
15 uncommon for people to come in and to minimize it and to
16 deflect, but it's sort of human nature when you're caught
17 in the headlights. But sometimes people do come in and
18 tell, tell every -- tell the truth right away. Is that ---

19 A. It's rare.

20 Q. Rare? Sorry.

21 A. Especially when they're a suspect.

22 Q. Okay. I know where you are on that. Something kind
23 of stood out to me also that you said that McClary didn't
24 want to talk to CPD?

25 A. Right.

1 Q. Now, do you have the -- do you have the audiotape from
2 the CPD or the audio disk now? I guess tape is dating me a
3 little bit. Do you have the audio disk from the CPD
4 interview in your case file?

5 A. I, I don't know if it's in the file or not. I mean, I
6 know that they had mentioned something about a tape, yeah.

7 Q. Okay. Would it surprise you if he had talked to them?

8 A. Who, McClary?

9 Q. Yes.

10 A. In what detail, I don't know.

11 Q. Okay. Sure. Sure. I'm just getting into stuff that
12 jumps out here. Okay. Oh, you had testified on direct
13 that, let's see, Cari Pearson had been shown lineups that
14 had picked one person. That was Vincent Nelson. Is that
15 -- do you recall your testimony?

16 A. Yes.

17 Q. Didn't she pick two people? The second person was
18 Leonard Gaston, and if, if -- I have the -- if I had the
19 lineup, would it help to refresh your ---

20 A. That would help, yes, sir.

21 Q. Sure.

22 A. Thank you.

23 Q. All right.

24 MR. SUTHERLAND: Your Honor, may I approach?

25 THE COURT: You may.

J. BOLAND - CROSS-EXAMINATION BY MR. SUTHERLAND

797

1 MR. SUTHERLAND: Thank you, sir. There we are.

2 BY MR. SUTHERLAND:

3 A. Yes.

4 Q. All right, and he is the -- see number 6 at the -- he
5 is the bottom right?

6 A. Bottom right.

7 Q. Okay. Okay. Initially way back when you first
8 started testifying, you talked about reporting out to that
9 street that was -- that intersected [REDACTED] is McCrae
10 Street?

11 A. I believe it is.

12 Q. And there were three fellows in there?

13 A. Yes.

14 Q. There was a gun?

15 A. Yes.

16 Q. There was some dope in there?

17 A. Yes.

18 Q. Okay, and some of that I believe you testified, you
19 know, camouflage clothing and that sort of thing?

20 A. Yes.

21 Q. And you spent a lot of time out there?

22 A. Yes.

23 Q. And showing lineups to -- I believe it was Troy?

24 A. Based on what Sergeant Faust was telling me, yeah, I
25 think some photo lineups or photos of those that were

1 involved in a traffic stop were then shown to Troy at
2 headquarters.

3 Q. Okay, but Troy was the only on the inside of the
4 incident during, during the incident location?

5 A. Right.

6 Q. Josh was outside. Do you know if the lineups were
7 shown to Josh?

8 A. No. Josh was at the hospital at the time.

9 Q. Okay. Sure. Sure. And, you know, I understand.

10 MR. SUTHERLAND: And beg the court's indulgence.

11 (A PAUSE.)

12 MR. SUTHERLAND: Don't want to miss anything. Okay.

13 Thank you very much. No further questions.

14 THE COURT: Ma'am.

15 MS. CAMPBELL: Yes, sir, briefly.

16 REDIRECT EXAMINATION BY MS. CAMPBELL:

17 Q. He asked you about Josh being shown lineups. What was
18 Josh's condition or ability to see that night?

19 A. Limited.

20 Q. And did he tell you that upfront?

21 A. Yes.

22 Q. And who was the other person he was able to identify?

23 A. Vincent Nelson.

24 Q. He asked you about the second lineup shown to Cari.

25 In the first lineup, she identified School or J School?

J. BOLAND - REDIRECT EXAM / J. SMITH - DIRECT EXAM 799

1 A. Yes.

2 Q. And in the second lineup, what did she say in her
3 statement, the highlighted part?

4 A. The question I asked in the second photo lineup:

5 What role did the person selected play at the
6 house last night?

7 Answer: He looked like the guy that had the Army
8 fatigue jacket on.

9 Q. He looked like the guy. And who were the two people
10 that actually got up close and personal with the two people
11 that went inside the house that day?

12 A. Troy and Trent.

13 MS. CAMPBELL: Thank you.

14 THE COURT: You may step down.

15 THE WITNESS: Thank you.

16 (THE WITNESS EXITS THE STAND.)

17 THE COURT: You may call your next witness.

18 MS. CAMPBELL: State calls James Smith.

19 JAMES S. SMITH, BEING DULY SWORN,

20 TESTIFIES AS FOLLOWS:

21 CLERK OF COURT: Have a seat in the witness stand,
22 please. State your name, please.

23 THE WITNESS: James Standin Smith.

24 DIRECT EXAMINATION BY MS. CAMPBELL.

25 Q. Major Smith, where are you employed?

1 A. Richland County Sheriff's Department.

2 Q. What do you do there, sir?

3 A. I am a supervisor of the criminal investigator
4 division. I hold rank of major.

5 Q. And how long have you been in law enforcement?

6 A. Thirty years this June.

7 Q. Is it major over the, the whole criminal division?

8 Excuse me. And what do your duties include?

9 A. Well, now I do more administrative things, much to my
10 chagrin, but sometimes I still get involved in some cases.
11 Most cases that are in the consult type capacity. Some
12 cases I get a little bit more involved, depending on the
13 nature of the case and what needs to be done.

14 Q. And did you become somewhat actively involved in this
15 case?

16 A. I did.

17 Q. When did you learn about the homicide, the murder that
18 occurred that we're here about?

19 A. Any time we have a homicide, I get, I get a call at
20 home or wherever I'm located, and I learned about it over
21 the course of the weekend by then Lieutenant McDonald,
22 who's now captain.

23 Q. And at that point, were certain people dispatched to
24 initiate the investigation?

25 A. Yes. We have a, we have a system in place where we

J. SMITH - DIRECT EXAMINATION BY MS. CAMPBELL

801

1 have a sergeant on call, as Sergeant Faust testified to,
2 and they're responsible for dispatching a team. We always
3 have a lead detective that's on call who we trust to work
4 these homicides, a competent veteran investigator. In this
5 case it was Investigator Boland, and he -- that, that team
6 is sent out as soon as a homicide takes place.

7 Q. I want to turn your attention to your active
8 involvement starting on Monday the 28th. Did y'all have a,
9 an opportunity to meet on this case?

10 A. Usually the way it seems to work out, we had a lot of
11 homicides on the weekend. I don't really know what that
12 reason is, but we do. And often times, Monday morning
13 rolls around where everybody's in place. We'll, we'll have
14 a meeting so everybody can get up to speed on it, and we
15 did in this case. A number of us met, to include some of
16 the forensic people, lab people, and that kind of thing.

17 Q. And at this point, had any of the participants in this
18 crime been identified?

19 A. Yes. Over the course of the weekend, Vincent Nelson
20 had been identified as the person who I would call the
21 set-up man, the man that obviously went inside and set this
22 thing up. When I came in, after reviewing the statements
23 that had been taken and analysis of his actions and some of
24 the things that he said, it was obvious to me that he was
25 the set-up man. It was obvious to me that probable cause

1 existed to get arrest warrants for him.

2 Q. And at that point, what did y'all do?

3 A. I instructed Captain McDonald and Sergeant Isenhoward
4 and Sergeant Lindler -- who were, at that point in time,
5 were supervising the murder -- that I believed that
6 probable cause existed and to go ahead and get arrest
7 warrants. To try to locate a residence for him, to get a
8 search warrant, which is standard practice.

9 Q. So, at that point you got arrest warrants for Vincent
10 Nelson?

11 A. Yes.

12 Q. And you also had a search warrant?

13 A. We -- I think they had identified a residence maybe on
14 [REDACTED] Drive. It was enough of a background there to get
15 a search warrant for that location.

16 Q. And that day, you didn't go out to actually [REDACTED]
17 Drive, but did other investigators go there searching for
18 Mr. Nelson?

19 A. Yes. As you've heard, a number of -- Captain
20 McDonald, sergeants, and I think Boland and Tanner all went
21 to [REDACTED] Drive.

22 Q. That morning, did you also develop an additional
23 possible place to find Vincent Nelson?

24 A. Yes. Just as Investigator Boland explained the
25 databases, and I think in this particular incident, he was

J. SMITH - DIRECT EXAMINATION BY MS. CAMPBELL

803

1 talk about SCIATS, which is a statewide database run by the
2 Fusion Center at SLED, that catalogs all incident reports
3 with cooperating agencies. In this particular incident,
4 CPD is an agency who reports out to SCIATS. Therefore,
5 there was a report linking him to ██████ Hammond Village.

6 Q. And at that point, did you have any knowledge about
7 Maurice Roberts being involved in this particular incident?

8 A. None whatsoever.

9 Q. And, in fact, did you even know about Mr. Maurice
10 Roberts's residence when you got that information?

11 A. I believe the -- I'm not sure where that incident
12 report listed him by name, but I want to say it did not.

13 Q. That day around 12:30, did you participate in the
14 actual search for Vincent Nelson?

15 A. The, the detectives were already at ██████ and I was
16 able to get free and go over there and meet them. So, I
17 did join in that around 12:30.

18 Q. Tell the jury what you saw, what you observed when you
19 got there.

20 A. When I got there, I think Investigator Tanner had Mr.
21 Duckett in his automobile talking to him. I believe
22 Captain McDonald may have been talking to Maurice Roberts
23 in his automobile, and I knew that Vincent Nelson had been
24 located and arrested, and I believe Boland had him at that
25 point in time.

1 Q. And it's your information that at that point, all
2 three of those young men were then transported back to
3 headquarters?

4 A. Yes.

5 Q. And once they got back to headquarters, did you make
6 contact with any of them?

7 A. Yes, I actually -- you got three, three individuals
8 who needed to be interviewed. Typically these interviews
9 are done by, by two investigators. I just happened to be
10 involved in the interview of Vincent Nelson with
11 Investigator Boland.

12 Q. And who was actually involved in the interview of
13 Maurice Roberts?

14 A. I believe it was then Lieutenant McDonald and Sergeant
15 Lindler.

16 Q. Lieutenant McDonald and Sergeant Lindler that are here
17 in court?

18 A. Yes.

19 Q. During the course of interviewing these people, is it
20 unusual for y'all to exchange information as you're
21 interviewing people independently?

22 A. It's very common.

23 Q. And explain that to the jury.

24 A. Well, when you have multiple co-defendants and/or
25 multiple witnesses and you happen to have the benefit of

1 having them at the same time, to be interviewing them, you
2 have the benefit of comparing notes, if you will. So,
3 understanding having done this a number of years and done
4 thousands of interviews, I know how individuals will
5 minimize their involvement.

6 In other words, they'll, they'll get to the point
7 where they feel like, yeah, I'm involved in it, but this is
8 what I did, and it's substantially less than what, what
9 they really did. And when you have somebody else you're
10 interviewing who's saying what they really did, then you
11 can go sort of confront them, if you will, with that.

12 Q. And is it unusual, as in this case for a person when
13 they're arrested, in the initial interview to totally deny
14 being involved?

15 A. It's very common.

16 Q. And then when confronted with information, say, by
17 co-defendants, they may come off with some of their role?

18 A. Yes. It's sort of like testing the waters to see if I
19 get away with saying I didn't do it at all. And then when
20 you realize the waters aren't friendly, then you start
21 giving a little bit up, and slowly it comes out and you get
22 to a point where just, you know, they're going to tell you
23 everything that they're going to tell you at that point in
24 time about their involvement.

25 Q. Can you force them to come, come completely clean?

1 A. No.

2 Q. Jwan Duckett, did he play a pivotal role in this
3 investigation?

4 A. He -- it was -- the timing on Jwaun Duckett was, was
5 very instrumental in this case because of him being there
6 when they went to [REDACTED] and having direct knowledge of the
7 planning of this, of this crime. It was timely to be able
8 to interview Mr. Duckett at the time Mr. Nelson was taken
9 into custody and at the time Maurice Roberts came to
10 headquarters because he defined fully the planning and the
11 participants in this, in this crime. All four of them.

12 Q. While you were talking to Mr. Nelson, were you also
13 able to develop the names of two additional co-defendants,
14 beside Mr. Roberts and besides Mr. Nelson, that you were
15 able to confirm through investigation procedures?

16 A. Yes. We, we, at that point in time, we were able to
17 identify Demetrice James and Deshawn McClary.
18 Particularly, we were able to get Deshawn McClary's name
19 off of the previously mentioned CPD report.

20 Q. Once -- well, you already had arrest warrants for Mr.
21 Nelson at that point?

22 A. Yes.

23 Q. He was under arrest?

24 A. He was under arrest.

25 Q. After Mr. Roberts's statement that day, was the

J. SMITH - DIRECT EXAMINATION BY MS. CAMPBELL

807

1 decision made on whether or not to arrest him?

2 A. Yes. His statement, coupled with the statements of
3 Vincent Nelson and Mr. Duckett, provided substantial
4 probable cause to charge Mr. Roberts.

5 Q. And was he charged in this case?

6 A. He was charged in the same manner that Mr. Nelson was.

7 Q. And what were those charges?

8 A. Murder, burglary first degree, two counts of attempted
9 murder, and attempted armed robbery.

10 Q. And, in fact, all of them -- were all four of the
11 defendants in this case charged with all those charges?

12 A. They were.

13 Q. And as far as witness information from the crime
14 scene, is it unusual to get some conflicting information as
15 far as what may have been said or heard in any crime scene
16 such as the one you have here?

17 A. It's not unusual and actually it's something we
18 actually expect. If, if you have multiple witnesses to a
19 crime and everybody's story is sort of cookie cutter, it's
20 highly suspicious. Different witnesses see different
21 slices of the pie, if you will, at different times. One
22 person may have seen a, a black cap. One person may see a
23 dark brown cap. It doesn't mean that they're, they're
24 wrong, that they think that's what they saw, and that, that
25 gives it credibility, especially in something that's

1 happening with the -- as fast as this incident and as
2 violent as it was. For those witnesses to, to see what
3 they did see was, was, was good.

4 Q. And, and you had an opportunity to review Mr.
5 Roberts's statement?

6 A. I did.

7 Q. And specifically in reviewing that, was there any
8 evidence that either of the young men out in the driveway,
9 Brandon Jones or Josh Williams, ever involved -- were
10 involved in hitting somebody?

11 A. No.

12 Q. But was there something about Mr. Roberts, when he was
13 arrested, that he had to explain?

14 A. He had a goose or a black eye, a goose egg or a black
15 eye on his, on his face, and he explained it by claiming
16 that he was struck in the driveway. Of course, we knew by
17 that point in time an altercation in the house is where one
18 of the Scott brothers had actually struck one of the -- as
19 you heard him testify, I believe it was the young man that
20 had some marshal art skills, struck one of the defendants
21 in the face.

22 Q. And in this case, independently, were you also aware
23 that the two men inside were able to identify the
24 defendant?

25 A. Yes. We -- as, as we learned who the players were

1 showed, more lineups, both of the Scott brothers identified
2 Maurice Roberts, and they would have only identified
3 individuals that were in the house or, or Vincent Nelson,
4 the set-up man.

5 Q. And as far as Maurice Roberts's statement, is his
6 account of what happened inconsistent in some significant
7 areas as far as what the victims say happened?

8 A. His account -- basically he supplanted himself for Mr.
9 McClary. He is identified not only by the Scott brothers.
10 All three co-defendants identified his actions that he
11 tried to put on Mr. McClary in his statements. So, he
12 simply tried to insert himself in Mr. McClary's role as
13 being the person that was out in the driveway when all the
14 evidence and all the statements indicate that he was with
15 Mr. James in the house.

16 Q. And is Mr. McClary's appearance significantly ---

17 A. Substantially different, and I believe in Mr.
18 Roberts's own statement he refers to him as albino.

19 Q. And in your review of the evidence in this case, the
20 roles, whose, whose gun was it?

21 A. It was Maurice Roberts's gun.

22 Q. And where does the planning take place?

23 A. At Maurice Roberts's apartment, ██████ Hammond Village.

24 Q. And where did they flee to afterwards?

25 A. ██████ Hammond Village.

1 Q. And from the credible evidence, the shooter?

2 A. It's Maurice Roberts.

3 Q. Of Mr. Jones?

4 A. That's correct.

5 Q. Not from the inside?

6 A. That's correct.

7 Q. Thank you.

8 MS. CAMPBELL: I have no further questions.

9 MR. SUTHERLAND: Please the court, sir?

10 THE COURT: Yes, sir.

11 CROSS-EXAMINATION BY Mr. SUTHERLAND

12 Q. Mr. Smith, how are you?

13 A. Fine, Mr. Sutherland, and you?

14 Q. I'm doing well enough here.

15 A. I understand.

16 Q. Well, you testified that the credible evidence points
17 to Maurice as shooting outside?

18 A. Yes.

19 Q. And that's --- those fellows right there, Deshawn
20 McClary, Demetrice James, and Vincent Nelson ---

21 A. I believe they all indicate that.

22 Q. Okay, and so they're credible to you?

23 A. In this particular instance they are, yes, sir.

24 Q. Okay. Fair enough.

25 A. They all defined their involvement. Demetrice

J. SMITH - CROSS-EXAMINATION BY MR. SUTHERLAND

811

1 James ---

2 THE COURT: All right. Hold, hold on one second.

3 Let's -- listen, fellows, ladies. This jury determines the
4 credibility of the witnesses. Not the witnesses. So, that
5 is y'all's sole responsibility to determine who's telling
6 the truth. Not this witness. So, move on to another area.

7 MR. SUTHERLAND: Yes, indeed. Thank you, Your Honor.

8 BY MR. SUTHERLAND:

9 Q. Okay. We're going to be brief here. You had arrived
10 at Hammond Village, you said was around 12:30?

11 A. It was.

12 Q. It was the same stuff, and you noted in your report at
13 about that time, Roberts was soon taken into custody?

14 A. That's what my report says, yes, sir.

15 Q. Okay, and that was around 12:30 before he left?

16 A. That was what my report indicates, yes, sir.

17 Q. Okay. Thank you.

18 MR. SUTHERLAND: No further questions, Your Honor.

19 THE COURT: Anything on redirect?

20 MS. CAMPBELL: No, sir.

21 (THE WITNESS EXITS THE STAND.)

22 THE COURT: Next witness.

23 MS. WALKER: Your Honor, at this time the state rests.

24 THE COURT: Okay, Mr. Foreman, ladies and gentlemen of
25 the jury, that concludes the testimony presented by the

1 state. Please return to your jury room for a few minutes,
2 and I will bring you back out and let you know where we're
3 going. Do not discuss the case; do not deliberate.

4 (THE JURY EXITS AT 3:06 PM.)

5 THE COURT: Motions by the state?

6 MS. WALKER: No motions, Your Honor.

7 THE COURT: By the defendant?

8 MR. SUTHERLAND: May it please the court, Your Honor?

9 THE COURT: Yes, sir.

10 MR. SUTHERLAND: At, at this time I will renew all my
11 previous motions and objections with respect to the, with
12 respect to the state -- with respect to lineup, and
13 anything that -- including but not limited to the pretrial
14 motions and the objections that followed during the trial.

15 Also, I, at this time, I would move, Your Honor, to
16 direct a verdict in favor of Mr. Roberts with respect to
17 each of the charges, as I must. Our argument would be that
18 the evidence is not competent to support a guilty verdict,
19 sir.

20 THE COURT: Well, obviously you are more than
21 protected. I think I have all through the trial on your
22 objections to the lineup and to the statements, et cetera.

23 MR. SUTHERLAND: Yes, sir.

24 THE COURT: And I don't know that you can do anything
25 else to protect yourself other than what you've done.

1 As to your motions for directed verdict, obviously
2 there's a wealth of evidence in the record that, if the
3 jury believes, that would certainly support a verdict in
4 favor of the state against your client if they believe it.
5 They may not believe it. I don't know. That's their job
6 to determine ---

7 MR. SUTHERLAND: Yes, sir.

8 THE COURT: --- what the true facts are. But if they
9 do determine the testimony that they've heard and the
10 evidence that they've heard from the co-defendants and
11 circumstantial evidence, as well as the direct evidence,
12 there is a wealth of evidence that would support a
13 conviction if they find the evidence to be true.
14 Therefore, I respectfully decline and deny your motion for
15 directed verdict.

16 MR. SUTHERLAND: Thank you, sir.

17 THE COURT: Anything else?

18 MR. SUTHERLAND: No, sir.

19 THE COURT: All right, sir, do you intend to present
20 any evidence?

21 MR. SUTHERLAND: We do not intend to present any
22 evidence.

23 THE COURT: Okay. Mr. Roberts, you stand up for me
24 please.

25 DEFENDANT: Yes, sir.

1 to being able to start with deliberations.

2 MS. WALKER: Thank you, Your Honor. May it please the
3 court?

4 THE COURT: Yes, ma'am.

5 MS. WALKER: Good morning.

6 THE JURY: (*en masse*) Good Morning.

7 MS. WALKER: Before I get started, the first thing
8 that I want to do on behalf of the State of South Carolina,
9 Richland County, the Scott family, the Williams family, and
10 most importantly the Jones family is thank you for your
11 time and for your attention and for your service this week.

12 You have been exposed this week to what is, quite
13 frankly, an unspeakable tragedy. The pictures you've
14 looked at, the testimony you've heard is something that we
15 ask citizens to do here in Richland County as part of their
16 jury service. And if those things -- as I'm sure at times
17 they did -- offend you, I want to apologize for that and
18 ask that you not hold what were sometimes gruesome and
19 troubling details against the State of South Carolina or
20 the victims in this case.

21 As Ms. Simpson told you earlier this week, what we
22 were going to talk about was an example of how little value
23 some people in our community place on human life. As Mr.
24 Sutherland said, the constitution protects citizens to
25 gives them rights, but the laws, the laws that affect this

1 case and the laws that I'm going to talk to you about
2 briefly are the laws that protect citizens from people like
3 Mr. Roberts.

4 This case, in a criminal case, like in all criminal
5 cases, the state has the burden of proving Maurice
6 Roberts's guilt beyond a reasonable doubt, which leads me
7 to the first thing that I want to talk to you about, and
8 that is what is reasonable doubt.

9 It's not proof beyond all possible doubt. Reasonable
10 doubt is doubt that leaves you firmly convinced of the
11 defendant's guilt. There are very few things in life or in
12 the world that we know with absolute certainty, and in
13 criminal cases the law does not require that proof
14 overcomes every possible doubt. If, based on your
15 consideration of the evidence, you are firmly convinced
16 that the defendant is guilty of the crime charged, you must
17 find the defendant guilty. If, on the other hand, you
18 think there is a real possibility that the defendant is not
19 guilty, you must give the defendant the benefit of that
20 doubt and find him not guilty.

21 For the crimes with which Maurice Roberts is charged,
22 you will hear Judge Early tell you -- and if during this
23 recitation of the law I say something that differs from
24 what Judge Early says, listen to Judge Early. If during my
25 review of the facts as they've been exposed here this week,

1 if what I say is different from how you remember it, go
2 with your memory because the law that makes you the judge
3 of the facts of this case is the same one that makes Judge
4 Early the judge of the law in this case. And he will
5 instruct you that if a crime is committed by two or more
6 people, like in this case with these four co-defendants,
7 and those people are acting together in committing the
8 crime, the act one of one of them is the act of all of
9 them. A person who joins with another to commit an
10 unlawful act is criminally responsible for everything done
11 by the other person which happens as a probable or natural
12 consequence of the acts done in carrying out the common
13 plan and purpose.

14 For example, two people or, in this case, four people
15 can be guilty of killing another person when only one of
16 the two had a gun, there was only one bullet, and only one
17 of the two fired the shot that caused the death. If two or
18 more people are together, acting together, assisting each
19 other in committing the offense, the act of one is the act
20 of all. Or, as it is sometimes said, the hand of one is
21 the hand of all.

22 There's been a lot of questions this week about who
23 actually pulled that trigger that night. Was it Deshawn?
24 Was it Demetrice? Was it Vincent? Or was it, as I think
25 we've proven here this week, Maurice Roberts? What the

1 hand of one, hand of all means is that, quite frankly, it
2 doesn't matter. Once the four of them got together and
3 decided to go commit this lick and went into a home with --
4 armed with a weapon, committing a home invasion, the act of
5 one of them became the act of all of them. All of them are
6 equally responsible for their actions that night once they
7 got together and decided to go commit a home invasion armed
8 with a .45 pistol.

9 The judge will further charge you that if two or more
10 combine together to commit an unlawful act, such as
11 robbery, and in the execution of that criminal act a
12 homicide is committed by one of the actors as a probable or
13 an actual consequence of the acts done in pursuance of the
14 common design, all present and participating in the
15 unlawful, in the unlawful undertaking are as guilty as the
16 one who committed the fatal act.

17 Regardless of which one of them actually pulled the
18 trigger, they are all equally guilty. Vincent Nelson,
19 Deshawn McClary, and Demetrice James are all just as guilty
20 as Maurice Roberts for the murder of Brandon Jones and the
21 attempted murders that occurred that night. The common
22 purpose may not have been to kill and murder, but if it was
23 unlawful -- as, for instance, to break into someone's home
24 and steal -- and in the execution of this common purpose, a
25 homicide was committed by one as a probable or natural

1 consequence of the acts done in pursuance of the common
2 design, then all present participating in the unlawful
3 common design are as guilty as the slayer.

4 When you arm yourself, when you invade someone's home,
5 someone's castle, a death in there is a natural and
6 probable consequence. Why else take a gun if you don't
7 intend to use it? And for those actions, Maurice Roberts
8 and all of his co-defendants have been charged with murder,
9 attempted armed robbery, attempted murder, and burglary in
10 the first degree.

11 In this state, murder is the killing of any person
12 with malice aforethought, either expressed or inferred.
13 Malice is a word that our courts have gone further in
14 defining. They define malice as hatred, ill will, or
15 hostility towards another person. It is the intentional
16 doing of a wrongful act without just cause or excuse. It
17 is an intent to inflict injury under circumstances that the
18 law will infer an evil intent. It's also been defined as
19 not necessarily a party's ill will towards the individual
20 injured, but signifies whether -- a general malignant
21 recklessness of the lives and safety of others, or
22 condition of mind which shows a heart, regardless of social
23 duty, and faithfully bent on mischief.

24 The facts in this case, what Maurice Roberts and his
25 co-defendants did on that night, ladies and gentlemen,

1 things don't get much more malicious than what they did.
2 They got together. They executed and strategized to go get
3 studio equipment. They walked from Maurice Roberts's home
4 to the victim's home. And as Brandon Jones was on the
5 ground begging not to be shot, this defendant unloads his
6 gun into Brandon's body. There are few things that one
7 will ever hear more malicious than what Maurice Roberts did
8 on January 25th of 2013.

9 The malice that I just talked to you about does not
10 need to exist for any particular time before the act is
11 committed. It may exist in the mind of the defendant just
12 before and at the time the act is committed. Therefore,
13 there must be a combination of the previous evil intent and
14 the act. When he takes that gun and he points it down to a
15 defenseless person who he's already pistol whipped and
16 rendered helpless, at that point there was malice, and he
17 pulled that trigger. And the malice, combined with the
18 pulling of that trigger and death of Brandon Jones, is
19 murder.

20 But even further, the law says if one intentionally
21 kills another during the commission of a felony, like an
22 armed robbery or a burglary, the implication of malice may
23 arise. If facts are proved beyond a reasonable doubt
24 sufficient to raise an inference of malice to your
25 satisfaction, this inference would be simply an evidentiary

1 fact to be taken in consideration by you, the jury, along
2 with the other evidence in the case, and you make give it
3 such weight as you determine it should receive.

4 The law also allows the jury to infer malice if you
5 conclude the homicide was a proximate and direct result of
6 the commission of the felony. And for that regard, the
7 attempted armed robbery would be a felony under our law.
8 You can imply that malice existed if a person is in the
9 commission of a felony, and at the time of that attempt
10 executes a fatal blow. That's murder and that's the charge
11 for which the defendants have been charged in the death of
12 Brandon Jones.

13 They've also been charged with two counts of attempted
14 murder. You've heard from Joshua Williams and Trent Scott
15 that they actually shot that night. It's a, basically a
16 murder but the victim survives, attempted murder. The
17 state must prove the defendant attempted to kill another
18 person with malice aforethought, either expressed or
19 implied.

20 An attempt is an effort to accomplish a crime which
21 does not succeed. An attempt includes a specific intent to
22 do a particular criminal act, along with an act -- excuse
23 me, along with an act falling short of the act intended.

24 The state must show more than mere preparation and
25 intent. At this point, it's not like they just talked

1 about going to go do this armed robbery, and then decided
2 not to do it. They talked about it, and then they went to
3 go commit the armed robbery and the burglary, and as a
4 result the attempted murders and murder.

5 The state must show more than mere preparation and
6 intent. There must be some overt act: walking over to the
7 house, trying to break into the home, pointing a gun at
8 people's faces, demanding money. There must be some overt
9 act committed in the effort to commit the crime.

10 Intent means intending the result which actually
11 occurs, not accidentally or involuntary. Intent may be
12 shown by acts and conduct of the defendant, and other
13 circumstances from which you may naturally and reasonably
14 infer intent.

15 They have been charged with attempted murder in the
16 shooting of Joshua Williams and Trent Scott. Attempted
17 murder, a specific intent to kill is not an element of
18 attempted murder, but there must be a general intent to
19 commit serious bodily injury, like shooting someone.

20 Intent means intending the result that actually occurs, not
21 accidentally or involuntary, or involuntary. Intent may be
22 shown by acts and conduct of the defendant and other
23 circumstances from which you may naturally and reasonably
24 infer intent. Intent may also be inferred when it is
25 demonstrated that the defendant voluntarily and willfully

1 commits an act, the natural tendency of which is to destroy
2 another's life.

3 Not only did he pistol whip them. He then shot them.
4 Trent Scott was shot, Joshua Williams was shot, but what is
5 not in that charge and what Judge Early will not charge you
6 is that the seriousness of the injury matters in an
7 attempted murder. A person can shoot at another person and
8 completely miss them and still be charged with attempted
9 murder.

10 The EMS workers told you that the wounds were cared
11 for. That they were superficial wounds to Joshua Williams.
12 The fact that he missed doesn't make him any less guilty of
13 attempted murder. The fact that he didn't have the ability
14 to shoot at a sitting target with Trent Scott and Josh
15 Williams like he did with Brandon Jones doesn't make
16 Maurice Roberts or any of his co-defendants, for that
17 matter, any less guilty of attempted murder.

18 They've also been charged with armed robbery. The
19 state must first prove beyond a reasonable doubt the
20 defendant attempted to take personal property from the
21 person or presence of another person. The state must also
22 prove beyond a reasonable doubt that the defendant
23 attempted to carry the property away, intending to
24 permanently deprive the owner of the property, and to keep
25 the property for the defendant's own use.

1 Finally, the state must prove beyond a reasonable
2 doubt the defendant was armed with a deadly weapon during
3 the attempted robbery. A deadly weapon is an article,
4 instrument, or substance which is likely to cause death or
5 great bodily harm. Whether an instrument has been used as
6 a deadly weapon depends on the facts and circumstances of
7 each case.

8 There is no doubt in this case that the gun in
9 question was a deadly weapon. It killed someone. There's
10 no doubt in this case that that was the intended purpose of
11 it. Co-defendant after co-defendant after co-defendant
12 told you that there was a gun out. That they were going to
13 go get studio equipment, and that that was the purpose of
14 going over to the Scott residence that night.

15 The following example of instruments which may be
16 deadly weapons: a pistol, a shotgun, a rifle, a dirk, a
17 dagger, a knife, a slingshot, metal knuckles, a razor,
18 gasoline, a fire bomb or molotov cocktail, and the lighter.

19 And lastly, they've been charged with burglary in the
20 first degree. A person is guilty of burglary in the first
21 degree if the person enters a dwelling without consent and
22 with the intent to commit a crime in the dwelling. And
23 either, one, when effecting entry or while in the dwelling
24 or in immediate flight he or an accomplice in the crime is
25 armed with a deadly weapon. Here we have going into house

1 with a gun. When, in effecting entry, while in the
2 dwelling, or in immediate flight he or an accomplice in the
3 crime causes physical injury to a person who is not a
4 participant in the crime.

5 In this case, they caused physical injury to three
6 people. And, ladies and gentlemen, we need only one of
7 these, but as you will see, we have multiple elements to
8 make this defendant and his co-defendants guilty of
9 burglary in the first degree.

10 When, in effecting entry, or while in the dwelling, or
11 in immediate flight, he or an accomplice in the crime uses
12 or threatens the use of a dangerous instrument. They're in
13 there, and he said I'm about to pull. I'm about to pull.
14 Threatens the use of a dangerous instrument.

15 Or lastly, when, in effecting entry or while in the
16 dwelling or in immediate flight, he or an accomplice is
17 entering or remains during the hours of darkness.
18 Testified that it was -- Joshua Williams testified that it
19 was dark outside. They all said it was around 10:00 when
20 this burglary happened. All four of those elements
21 required are present in this case.

22 And lastly, and what this case and just about every
23 other case boils down to is the credibility of witnesses.
24 In determining the believability of witnesses who have
25 testified in this case, you may believe one witness over

1 several witnesses, or several witnesses over one witness.
2 You may believe a part of the testimony of a witness and
3 reject the remaining part of that testimony of the same
4 witness. You may believe the testimony of a witness in its
5 entirety or reject the testimony of a witness in its
6 entirety. You may consider whether any witness has exhibit
7 to you -- has exhibited to you any interest, bias,
8 prejudice, or other motive in this case, and I'm going to
9 get back to this much -- in more, much more depth later.
10 But you may also consider the appearance and manner of a
11 witness while on the witness stand. Those are the laws
12 that are going to be applied to the facts of this case.

13 And as the three of us were preparing for this trial,
14 Ms. Campbell, Ms. Simpson, and I, we began to look at the
15 evidence as we thought it would play out in court and to
16 try to anticipate what defense Mr. Sutherland may use in a
17 crime like this. How do you defend a case in which the
18 victims can identify your client as the person who broke
19 into their home, pointed a gun at them, began to fight
20 them? How do you defend a case like that? How do you
21 defend a case when not one but three co-defendants are
22 testifying against your client? How do you defend a case
23 in which your client confesses and implicates his own guilt
24 in the crimes? How do you defend a case in which the cell
25 phone, the text messages that your client and his

1 co-defendants sent to each other that night to plan the
2 armed robbery and burglary and eventually attempted murders
3 and murder, how do you defend a case where he still has his
4 text messages on his phone? How do you defend a case with
5 such overwhelming evidence of your client's guilt? How do
6 you defend a case when your client, according to his own
7 friends, stood over a helpless young man and shot him to
8 death? How do you defend the indefensible? And, quite
9 frankly, we were at a loss.

10 And it wasn't until Tuesday when Mr. Sutherland began
11 his opening statement that I began to understand what the
12 defense was going to be in this case. Just don't talk
13 about it; don't talk about the case. Talk about the scary
14 government lawyers over there. Talk about the constitution
15 and the protection that it affords to citizens, but by all
16 means don't talk about the facts of this case because
17 maybe, just maybe if you can scare the jury enough of these
18 ladies at this table, they will be so caught up in being
19 afraid of them that they will forget about the pistol
20 whipping, armed robbing, burglarizing murderer of a client
21 he has sitting beside him.

22 It's a novel defense, I guess, but one that's not
23 going to work because I've watched all of you as you've
24 paid close attention, as you've reviewed the exhibits, and
25 as you've listened to the witnesses in this case, witnesses

1 like Joshua Williams.

2 He was the first victim that testified, and he took
3 the stand, and he told all of you about what happened that
4 night. That he was at the Scott home. That he'd been
5 welcomed into their home. He was with his best friend,
6 Brandon. That they were hanging out in the basement as
7 usual, and that a guy that he knew by the name of J School,
8 Vincent Nelson, Jr., came over to that home and it
9 surprised them because they hadn't seen Vincent Nelson,
10 Jr., in a while, and that J School was acting weird. He
11 was on the phone, and that that was weird because they
12 don't know him to have a phone. That he was pacing back
13 and forth, and that he kept asking Brandon Jones for a
14 cigarette. He wanted to go outside and smoke.

15 He told you that they eventually went outside,
16 Brandon, Josh, and Vincent Nelson, Jr., and that because he
17 didn't want to be disrespectful of the home, he walked up
18 to the top of the hill to smoke his cigarette so that he
19 wouldn't ash near a driveway.

20 He said that three guys kept walking back and forth.
21 That he didn't like it because he didn't like the
22 intimidation factor, and that before he knew it, they ran
23 back at him. One of them hit him in the head with a
24 pistol. That he went down. That he was in and out of
25 consciousness. That he saw them run down the hill. He

1 heard scuffling. They entered the home, and that after he
2 got hit with that pistol, the only thing he could do was
3 play dead.

4 And that after they came out of that home, he heard
5 his best friend, Brandon, beg for his life. Don't shoot
6 me. Don't shoot me, and as he was begging for his life, he
7 heard a series of gunshots go off and that a jolt of pain
8 went through his body, and that he saw eight shoes run up
9 the hill.

10 Credibility, judge Josh's credibility. He didn't put
11 in a bunch of extra evidence; he didn't go identify people
12 that he couldn't identify. He said I couldn't see their
13 faces. I'd been pistol whipped. The only thing that I
14 knew to do was play dead.

15 You heard from Troy Scott, and he did identify people.
16 He identified not only J School, but he identified Maurice
17 Roberts and Demetrice James as well. Troy said that he was
18 in the bedroom with his girlfriend, Cari, who also
19 testified. That he heard a crash outside of the bedroom
20 and that he was confused because people knew better than to
21 the fight in his mother's home. That when he walked out of
22 the bedroom, he saw a stranger in his home fighting with
23 his little brother. That he went to go help his little
24 brother. That as he was doing that, another person ran
25 into the room, and that they began to fight them and push

1 them out of the home because it was his job and his little
2 brother's job to not let them get any further into the
3 home. To protect Cari, to protect their parents, to
4 protect their home.

5 And you heard from his little brother, Trent Scott.
6 He was walking down the stairs with hangers. That he saw
7 this defendant running into the home pointing a gun, and
8 that he knew at that point in time it was go time. That he
9 had to fight him. That he had to get him out of his house.
10 That he knew he had to do those things or die trying.

11 And both Troy and Trent said that as though -- as they
12 were fighting them, as they became entangled in the most
13 intimate of battles, wrestling on the ground, picking them
14 up, one of them put somebody in a Full Nelson. They pushed
15 them out of the house. They were able to get good looks at
16 them, and both of them identify Maurice Roberts and
17 Demetrice James as the two men who ran into their home that
18 night. They identified Vincent Nelson. But the person
19 that they never identified was Deshawn McClary, the person
20 that they never saw that night because Deshawn McClary
21 never entered the home. They identified the other three,
22 though. Judge their credibility.

23 And if -- one way to judge someone's credibility when
24 they take the witness stand is to see if the things they
25 say to you, if the testimony they give is corroborated by

1 other evidence. Talks about that fight that took place in
2 the red room -- or in the orange room where he had to throw
3 down those hangers and fight to keep those intruders out of
4 his home or die trying. Here is the red room; here are
5 those hangers strewn across the floor, the corroboration of
6 their testimony.

7 Cari Pearson was there, too. She said that she heard
8 the crash. She followed her boyfriend out, and that she
9 really couldn't get close enough. She couldn't tell who
10 was fighting. She saw a gun, and she ran back inside. She
11 didn't know whether to run or hide, so she just paced until
12 she heard all those gunshots. And at that point in time,
13 she didn't know what to do because she thought that her
14 boyfriend had just been shot.

15 And that she gets to Trenton. Sees that his arm --
16 he's bleeding from his arm. They run upstairs to Mr. and
17 Ms. Davis's bedroom. They knock on the door. They tell
18 them what's going on. Then more gunshots rang out.

19 Finally you heard from Mr. Davis. He's the one who
20 let Vincent Nelson, Jr., into the house. He was a friend
21 of his children's, someone who'd been in the home before,
22 someone who he trusted, and sent him downstairs. And it
23 wasn't until later when he was awakened by the frantic
24 banging on his door by those kids, and that nobody knew
25 where Brandon was. Then he left the house, concerned about

1 the young man he considered to be like a son. That he
2 found Branson on that cold driveway that January night
3 bleeding out, begging for help, and that he called 911.
4 Judge the credibility of those witnesses.

5 In order to try to corroborate this evidence, what we
6 bring forward to you, our expert witnesses. Those are
7 witnesses that -- the judge will advise you, as he advised
8 you while they were testifying -- who can render an opinion
9 based upon their expertise, their training, their
10 education.

11 Witnesses like Terri Gleason, who said that all of the
12 projectiles and all of the shell casings that were found on
13 that scene came from a .45. It was not just any .45, but
14 they all came from the same .45. There was one weapon in
15 play that night, and it was a .45 that just happens to be
16 the same type of gun that Maurice Roberts has, the same
17 type of gun that Maurice Roberts had that night. The type
18 of gun that Jwuan Duckett has seen him with, the same type
19 of gun that Vincent Nelson, Jr., has seen him with, and the
20 same type of gun that his co-defendants saw him with on
21 that night.

22 John Barron, he was the DNA expert, and there was a
23 lot of back and forth and number writing and peaks. But
24 basically what that boiled down to was Vincent Nelson, Jr.,
25 discarding a bunch of clothes behind none other than

1 Maurice Roberts's house after that burglary, armed robbery,
2 murder, and attempted murder. That Vincent Nelson, Jr.'s
3 DNA was on some gloves and a hat. That Vincent Nelson, Jr.
4 -- Vincent Nelson, Jr.'s DNA was also at the crime scene on
5 a beer can, the same beer can that had Brandon Jones's DNA
6 on it.

7 And they went back and forth over the DNA swabs from
8 the Scott brother's hand who'd been involved in the fight,
9 and there was a minor contributor and a major contributor.
10 The major contributor, not surprisingly, was the person
11 whose hands they were, and the minor contributor was too
12 weak to reliably interpret. He didn't include anyone; he
13 didn't exclude anyone. There wasn't enough DNA to get a
14 fair and accurate reading for him to render a result.

15 Then there was Dr. Amy Durso. She's the pathologist
16 who performed the autopsy in this case. She testified that
17 Brandon Jones was shot five times, one of them to the back
18 left hand as he shielded himself, providing the only
19 defense he could. That the other shot went through his
20 neck. The other shot went through his hip, and that he was
21 shot twice in the back. That as those bullets ripped
22 through his body, destroying his lungs and his liver, he
23 bleed out. Those five gunshots caused the death of Brandon
24 Jones.

25 He was shot in the back at downward angle, one through

1 the hand. She said that those shots were consistent with
2 someone, and as Deshawn McClary testified, standing over
3 Brandon Jones just unloading a gun into him.

4 There were several law enforcement officers that you
5 heard from. Reginald Grant, he was the first responding
6 officer; he was the first witness on the stand. Came in
7 and he said that they got gunshots, a call that gunshots
8 were -- had been fired. That people were hurt. That he
9 originally drove past the house. It was the same thing the
10 witness said, that he saw the cop drive past the house, and
11 he went up and waved him down and brought him back to the
12 right home. That when he got there and he saw other law
13 enforcement personal officers, EMS tending to the victims,
14 and so he, as is protocol, secured the crime scene and
15 began a crime scene log.

16 Michael Beeler, Yvonne Woods, Stan Richards, and
17 Timothy Lee, they were the crime scene investigators. They
18 were the ones who took the photographs that night, who
19 collected the evidence that night, and talked about the
20 things that they saw and observed: the blood-spattered
21 driveway, the blood inside, the damage to the interior of
22 the home that's seen in these pictures. They collected the
23 shell casings from that home, the shell casing that's there
24 inside that red room.

25 And especially Investigator Lee, who was called

1 several days later to take a picture of Maurice Roberts.
2 Remember the boys said that they'd got into a fight with
3 the people inside, and that he was able to hit one of them
4 in the eye? It wasn't Deshawn McClary who Maurice Roberts
5 claims went into the house that had a black eye. It was
6 Maurice Roberts. Still visible several days later.

7 You heard from Investigator Cruz, who's with the
8 Columbia Housing Authority. Hammond Village is one of the
9 areas that's under his supervision. He knows Maurice
10 Roberts, and that he got a phone calls about some clothes
11 connected to a possible murder that were hidden behind
12 Maurice Roberts's apartment, in that apartment complex.
13 That he went out there, and there were clothes there. That
14 he called CPD and Richland County because he didn't know
15 which agency may be involved in that murder. And then when
16 he met Scott Faust, he took him those clothes.

17 Scott Faust, who testified that there was an anonymous
18 tip that came in that Maurice Roberts and Vincent Nelson
19 had stashed clothes they'd used during a murder behind
20 Maurice's apartment, and those clothes had Vincent Nelson's
21 DNA on it.

22 You heard from Investigator Boland; he's the lead
23 investigator of the case. He talked about how the
24 investigation progressed, about the statements that they
25 were getting in. How each co-defendant not only implicated

1 himself but implicated all of his other co-defendants in
2 that crime, in that burglary, in that armed robbery
3 attempt, those attempted murders, and the murder of Brandon
4 Jones.

5 You heard from Agent Smith, thirty years of law
6 enforcement, and this case developed and evolved much the
7 way many of his other cases have. There are multiple
8 co-defendants. They get statements. They minimize their
9 own roles; they shift blame to other people. But that
10 because of the laws of this state, they can shift blame and
11 blame each other for being the shooter all they want, but
12 that it doesn't matter because under the laws of this
13 state, they are all equally responsible for what they did
14 that night. The non-shooters are just as guilty and just
15 as responsible in the death of Brandon Jones as Maurice
16 Roberts is.

17 Lastly, you heard from Captain Scott McDonald. He
18 went over, you know, tracking down Vincent Nelson, Jr., at
19 Maurice Roberts's apartment, and they knocked on the door.
20 Maurice Roberts, Sr., came to the door. That they asked
21 him if Vincent Nelson, Jr., was inside, and that Maurice
22 Roberts, Sr., lied to them. That Vincent Nelson, Jr., was
23 found asleep on the couch. Jwan Duckett was found hiding
24 in a closet with Maurice Roberts, Jr.'s cell phone. And
25 that Maurice Roberts, Jr., gave them information that

1 Vincent Nelson, Jr., used his cell phone on the night of
2 the murder.

3 And that after receiving that information, they asked
4 Maurice Roberts, Jr., to go down the sheriff's department
5 with him in his father's presence. That Maurice Roberts,
6 Jr., went willingly, and that because in cases like this he
7 never really knows what's going to happen, out of an
8 abundance of caution, he read Maurice Roberts, Jr., his
9 rights.

10 You're going to have a copy of this with you back in
11 the jury room, but I want to go over the Advice of Rights
12 and the statement with you as well. On January 28th at
13 2:25 at the Richland County Sheriff's Department, the
14 rights that were read to him and checked off:

15 Before we ask you any question, you must
16 understand your rights. You have the right to
17 remain silent. Anything you say can be used
18 against you in court. You have the right to talk
19 to a lawyer for advice before we ask you any
20 questions, and to have a lawyer with you during
21 and questioning. If you cannot afford a lawyer,
22 one will be appointed for you before any
23 questioning if you wish. If you decide to answer
24 questions now without a lawyer present, you still
25 have the right to stop answering at any -- at any

1 time. You also have the right to stop answering
2 at any time until you talk to a lawyer.

3 Maurice Roberts signed here, as did Chris Lindler. He
4 then waived those rights.

5 I have read the statement of my rights and
6 understand what my rights are. I am willing to
7 talk and answer questions. I understand and know
8 what I am doing. No promises have been made to
9 me, and no pressure or coercion of any kind ---

10 Coercion is underlined because he went and further
11 explained what coercion meant to him.

12 --- of any kind has been used against me.

13 Maurice Roberts waived those rights because at that
14 point, Maurice Roberts was just going to deny being there.
15 He told them I don't know what you're talking about. I
16 wasn't there; I didn't have anything to do with it.
17 Because what Maurice Roberts thought, incorrectly, was that
18 the boys, his 600 rap group, would never turn on him. They
19 would never implicate Maurice Roberts in a crime. I wasn't
20 there; I don't know what you're talking about.

21 But as his plan begins to unravel, as he's confronted
22 with the statements of Jwan Duckett, who is telling them
23 everyone who was involved, and Vincent Nelson, Jr., who is
24 also implicating himself and Maurice Roberts, he has to
25 change his strategy. He can no longer deny being there

1 because that's not going to work.

2 So, he shifts his lies. He's got to acknowledge being
3 there, but he begins to minimize his role. Again, at the
4 top of this page that you will have back with you in the
5 jury room are the rights that were read to him earlier.
6 And then they say what can you tell me about the shooting
7 that took place on January 25, 2013, at [REDACTED]
8 Drive? Says:

9 I was at my house that night around 10, 10:25 PM
10 with Junior. That's when 600 and Metro came over
11 to my house. While we were there, Junior talked
12 about going over to his homeboys' house for a
13 lick. He said they had a studio there. Junior
14 said the house was over there by the Village.
15 Junior had my cell phone and left the house about
16 five minutes before me, 600, and Metro did. The
17 plan was the Junior would get inside and then
18 call us, let us know when to come. We then began
19 to walk over toward E.E. Taylor School. While we
20 were walking, 600 got a phone call from Junior.
21 600 gave me the phone. Junior told -- Junior
22 told me that he was in, that his homies' daddy
23 let him in. I told Junior that he didn't need to
24 do this shit with the boys' daddy there. I was
25 walking down [REDACTED] with 600 and Metro. I

1 stopped when I got in front of the house. Metro
2 and 600 kept walking past the house and then turn
3 around and came back up to the house and took off
4 running down the drive.

5 At this point is when he begins to switch his role.
6 Not, not being there, but to make Deshawn McClary, who he
7 calls 600, responsible for the things he did that night.

8 I saw them telling people to get down. 600 and
9 Metro began tussling with someone in the
10 driveway. I saw them tussling and ran down the
11 driveway to help out. The boy had 600 on the
12 ground. I ran down and pulled the boy off 600.
13 When I did this, the guy turned around and hit me
14 with his elbow in my eye. The boy then turned
15 around and hit me with his fist. 600 then pistol
16 whipped the boy and felt down. 600 then went to
17 the doorway of the door at the bottom of the
18 driveway. 600 was trying to get the door open.
19 The other boys were trying to shut the door on
20 him, and he got his arm or hand stuck in the door
21 and was screaming for help. I ran over and tried
22 to help push the door open so 600 could get his
23 hand out. That is when I heard the gunshot go
24 off from 600's gun.

25 Now it's 600's gun. The gun that everyone has seen

1 Maurice Roberts with, he now makes -- that's 600's gun.

2 After the first shot, 600 and I back away from
3 the door. That's when 600 ran up the hill and
4 started shooting the boy that was down in the
5 middle of the driveway about halfway up. When I
6 saw this, I took off running and ran back to my
7 house. When I got back to my house, I was the
8 first one there. Junior then shows up. Junior
9 was saying ---

10 And excuse my language.

11 --- Niggas don't know how to listen. I cut on
12 the TV and turn on the news to see if there was
13 anything about what had just happened. I went
14 and got some ice to put on my eye. I then laid
15 down and fell asleep. Junior woke me up about
16 2:00. Junior wakes me up to show me something on
17 Facebook. It said RIP Beezy. I said damn, bro,
18 to Junior and then went back to sleep.

19 He realizes at this point that he has been involved in
20 a murder. Someone has died, and Maurice Roberts's reaction
21 is to say damn, bro, and go back to sleep. He didn't lose
22 a wink of sleep over this; he shot someone to death, and he
23 said damn, bro, and goes back to sleep.

24 Next question is:

25 While you were at the house during this incident,

1 did you hear someone ask how many people were in
2 that house? Yeah. Whoever the guy that got shot
3 was being asked how many people were in the house
4 by 600. Did you shoot anyone that night on
5 ██████████ Drive?

6 And his answer is no.

7 Did you have a gun with you on that night? No.
8 Who had the gun and did the shooting? 600. What
9 is 600's real name? I don't know his name; I
10 just know of him.

11 Now he doesn't even know this person who's been at
12 this house, with whom he's decided to commit an armed
13 robbery and burglary.

14 Can you describe 600? About 6 feet, skinny
15 fellow, albino. He was wearing all black, I
16 think. Twenty-one years old.

17 No one that entered that house that night was
18 described as being 6 feet, twenty-one, or albino. They
19 were both described as being much shorter and having a
20 brown complexion.

21 In this crowd, Deshawn McClary sticks out. He's about
22 a foot taller almost than Demetrice James and Maurice
23 Roberts. But that is who, on this occasion before he's
24 confronted with some of the facts of the case, Maurice
25 Roberts decides to blame for that murder.

1 What were you wearing that night? Brown
2 camouflage pants, a black hoodie with a hole in
3 the left shoulder. I accidentally bleached it
4 yesterday. I accidentally bleached it yesterday
5 when I was doing the dishes.

6 And that may be actually the most absurd part of this
7 whole case. He just happens to accidentally bleach the
8 clothes he's used during a murder while he's doing the
9 dishes. Is that credible? Does that sound true to you, or
10 does that sound made up and contrived by a young man who is
11 now backed into a corner?

12 He is the only defendant that night that felt the need
13 to go home and bleach his clothes because he was the only
14 defendant that night that was close to Brandon Jones as he
15 executed him for Brandon Jones's blood to splash back onto
16 this clothes. He had to get that blood off of him. And as
17 John Barron testified, the bleaching would have destroyed
18 that evidence. This wasn't an accident that occurred while
19 he was doing some chores around the house. This was an
20 attempt to cover up a murder that he had been involved in.

21 Who is metro? I don't know his real name. Black
22 male. 5/7, 5/8. Average build. Nineteen years
23 old. Medium complexion. He was wearing a skull
24 cap with a hoodie over it. I think he was
25 wearing all black as well. Where is the gun at

1 now? I don't know, sir. Is the picture I showed
2 you of Vincent Nelson the person you know as
3 Junior? Yes.

4 And they asked him questions about that gun, the gun
5 that people had seen on multiple occasion at Maurice
6 Roberts's house, the gun that since has gone missing.

7 If you want to ignore all of the other evidence in
8 this case, Maurice Roberts's statement alone makes him
9 guilty of these crimes. He admits to planning this, to
10 going over to the house to execute the plan, to helping out
11 as his, as his friend is tussling. If you want to ignore
12 the rest of this evidence and just take Maurice Roberts's
13 version of his role in the crime that night, his version
14 alone makes him guilty.

15 But Maurice Roberts, when confronted with more of the
16 evidence in this case that he and Demetrice had been picked
17 out of a photo lineups, and everybody knows Deshawn McClary
18 was acting as the lookout that night and never entered the
19 home, he began to evolve his story once again to try to
20 come up with some sort of defense for his actions that
21 night. He then shifts the blame from I wasn't there to I
22 was there and I never went inside -- that was all 600 -- to
23 it was Demetrice James. That's what he begins to tell
24 people. It was Demetrice who fired the shots that night.
25 His story is evolving as he's looking for a way out, for

1 any way that he doesn't have to take responsibility for his
2 actions that night.

3 And lastly, the people who he never thought would turn
4 on him: Jwan Duckett, Demetrice James, Vincent Nelson,
5 Jr., and Deshawn McClary. And as they testified, the thing
6 that struck out -- that stuck out to me was that they all
7 testified that they were much closer to Maurice Roberts
8 than they were to anybody else in that group. He had
9 surrounded himself with people who owed more loyalty to him
10 than they did to each other because if he did that, they
11 may tell on each other, they may flip on each other, but
12 they would never turn on him. It was a gamble he took, and
13 it was a gamble that he took and lost because they gave
14 statements to police implicating Maurice Roberts.

15 They said that he was the one with the gun that night.
16 Some of them said they didn't see the actual shooting, but
17 the only person that they saw with the gun that night was
18 Maurice Roberts. And when he realized that their loyalty
19 wasn't going to be enough to silence them, he then began to
20 threaten them.

21 Jwan Duckett, the one who was found with Maurice
22 Roberts's cell phone hiding in Maurice Roberts's closet,
23 came in, and he testified that he was at Maurice's house.
24 That he heard Deshawn, Maurice, Demetrice, and Vincent
25 Nelson, Jr., planning this armed robbery. That they were

1 going to go get studio equipment, and he didn't go with
2 them.

3 He talked about the rap group that they had, The 600.
4 And when he talked to police, he said that Maurice Roberts
5 was a part of 600. But when he took the stand, he backed
6 off of that a little bit until he was confronted with
7 evidence of his own statement. Jwan Duckett came in here
8 and testified against Maurice Roberts, something Maurice
9 Roberts never thought would happen.

10 And there was Demetrice James. Demetrice, according
11 to his testimony, was walking to the studio. They were
12 going to go do a rap song, when all of a sudden an armed
13 robbery breaks out. He sees Maurice running down the hill.
14 He goes down to try to help Maurice, who he continually
15 referred to as his good friend. And that in the midst of
16 that, he sees Maurice with a gun, and that gun was shuffled
17 back and forth. That he did have the gun at one point,
18 which is corroborated by the testimony of Scott brothers,
19 and that the gun went off, and that he gave it to Maurice.
20 And then the gun went off several more times.

21 Then there was Vincent Nelson, Jr., perhaps most
22 tedious testimony to take place in any courtroom in this
23 state. He gave a statement to police. He came in here and
24 he took the stand, and he looked out in that crowd, he
25 looked at Maurice, and he was at times rendered mute. But

1 he couldn't get away from the statement he'd already given.
2 He couldn't get away from pointing out that Maurice Roberts
3 was a part of that plan. That he went inside to be the
4 guinea pig. That he texted from Maurice Roberts's cell
5 phone, told them the number of people that were in the
6 house. That Maurice Roberts, after he'd gotten two people
7 outside of the house, came down at him and pointed a gun at
8 him. That he saw Maurice Roberts pistol whip people. That
9 he saw Maurice Roberts and Demetrice go into the home.
10 That he stayed out with one of the victims while Deshawn
11 McClary was with the other. That as they came out of that
12 home, he began to run away, and he heard more gunshots go
13 off, but the person he saw with the gun that night was
14 Maurice Roberts.

15 That when they got back, they needed to clean
16 themselves up. That Maurice Roberts went upstairs that
17 night -- not the next day when he was washing dishes -- but
18 that night, and when he came back downstairs, he smelled
19 bleach. Then Maurice Roberts told him to keep his mouth
20 shut, and if they kept their mouths shut, they would be
21 fine.

22 And finally there was Deshawn McClary. He testified
23 that 600 was the name of their rap group. That they
24 planned the robbery. That the cell phones were exchanged.
25 That his cell phone was the one that the group had, and

1 they were walking over to commit this robbery. That he was
2 acting as a lookout that night. That he saw Maurice and
3 Demetrice go down the hill and begin to fight. Vincent
4 Nelson was down that hill as well. That they went into the
5 house and a struggle continued there, and as they came out,
6 he saw Maurice Roberts stand over whom he referred to as
7 the deceased and shoot him five or six times. He said that
8 they ran off.

9 Mr. Sutherland questioned their credibility. He said
10 these guys are, are rapists, they are armed robbers, they
11 are kidnapers. You can't take their word for it, and that
12 all may be true, but we didn't pick the witnesses in this
13 case. If I picked the witnesses in this case, we would
14 have had a bunch of nuns and school teachers up here
15 telling you about what happened. The person who picked the
16 witnesses in this case was Maurice Roberts. These are his
17 friends. He hangs out with armed robbing, rapist
18 kidnapers. He picked the witness in this case; they're
19 his friends. They're not my friends, they're not Troy
20 Scott's friends, they're not Josh Williams's friends,
21 they're not Trent Scott's friends, and they are most
22 certainly not Brandon Jones's friends.

23 And he talks about the fact that those guys had
24 committed armed robberies before -- also true -- with
25 Deshawn McClary and Demetrice James. But in those armed

1 robberies that they had committed before, no one ever died.
2 What was different this time and what escalated the armed
3 robberies that may have been committed to murders was the
4 action of Maurice Roberts. He was the X factor that night;
5 he is what took them from armed robberies to murder. Judge
6 their credibility. Determine if what they say is
7 corroborated by other evidence, by the other victims, and
8 partially by Maurice Roberts's own statement.

9 All those people that I just discussed with you
10 testified. They took the stand, and they told you what
11 they perceived that night, what they witnessed that night,
12 or what they did over the course of this investigation.
13 And this case, as I stated earlier, comes down to
14 credibility. You're either going to believe the testimony,
15 you're going to believe the cell phone records, you're
16 going to believe hoodie, the DNA, the ballistics, the
17 pictures that are before you, or you're not.

18 And the thing that is most troubling about all of this
19 is that Maurice Roberts sits there, head hung. It's a far
20 cry from the man that entered that house pointing guns at
21 people. He's not meek and mild. He wasn't that night. He
22 wanted studio equipment, and he was going to take it.
23 Studio equipment. We are here talking about a dead young
24 man because of studio equipment.

25 People take lives for the most absurd of reasons these

1 days. You're wearing the wrong color. You're in the wrong
2 neighborhood. You looked at me funny. Your music is too
3 loud. Well, in this case, because Maurice Roberts wanted
4 something, and he was going to take it.

5 And what's the most saddening is that you heard
6 testimony about the type people Mr. and Ms. Chandler Davis
7 and their boys were. They had kids from all over the
8 neighborhood in their home when they had no place else to
9 go, when they didn't have food to eat, when they didn't
10 have clothes on their back, or when they wanted to simply
11 to hang out. If Maurice Roberts, Deshawn McClary,
12 Demetrice James, and Vincent Nelson, Jr., would have just
13 asked to hang out, just asked to use that studio equipment,
14 I'm sure Ms. Davis would have let them. But instead we are
15 here with one life taken and countless lives altered by
16 their actions because Maurice Roberts and his friends
17 wanted studio equipment.

18 As I said earlier, ladies and gentlemen, you're going
19 to either believe the evidence or not, the proof beyond a
20 reasonable doubt. If you are not firmly convinced that
21 Maurice Roberts on January 25th of 2013 planned with his
22 friends an armed robbery, if their own testimony doesn't
23 convince you of that, if you aren't convinced by the cell
24 phone records -- they exchanged cell phones in order to
25 carry out this plan. If you aren't convinced by the

1 testimony that they then walked there and the victims'
2 interactions with them, Maurice Roberts's black eye, the
3 identity of the Scott brothers of Maurice Roberts, if you
4 aren't convinced by that, if you aren't convinced by the
5 bleached clothes, if you aren't convinced by Maurice
6 Roberts's own statement that Maurice Roberts is guilty of
7 burglary in the first degree, two counts of attempted
8 murder, armed robbery, and murder, then let him go. Find
9 him not guilty. Walk him out of the back of this
10 courtroom.

11 But if, on the other hand, you believe in credible,
12 relevant, admissible evidence that we brought before you
13 this week, then find Maurice Roberts guilty. Hold him
14 accountable and return guilty verdicts for those five
15 charges.

16 I thank you for your time and attention this week.

17 THE COURT: Mr. Foreman, y'all okay? Everybody good?

18 FOREPERSON: Yes, sir.

19 MR. SUTHERLAND: Please the court, Judge?

20 THE COURT: Yes, sir.

21 MR. SUTHERLAND: Ladies, gentlemen, good morning.

22 This has been here since the beginning, and it's been here
23 since my opening statement.

24 I think I just heard that my defense of the
25 indefensible is that be very, very afraid of the

1 government. I, I think that's it was characterized, and I
2 think that was the end of it.

3 Fortunately, as we do when people take -- and we
4 actually have a record of what I said in the beginning, and
5 I have to tell you. I was deeply concerned about making
6 promises in the beginning because I don't really have any
7 control outside of objecting to things. You may have heard
8 me say something was cumulative, or there was, you know,
9 too much blood in the picture. Outside of that, I don't
10 really have any control over the evidence that, that they
11 put in. It's their call.

12 I, I, I recall saying that I think, and I'm sure I was
13 hedging. I'm almost one hundred percent that you're going
14 to hear people come in here and testify that Demetrice
15 James shot somebody, and you, you did hear that.

16 I also said let's see who the DNA points to and who it
17 points away from. We've heard the characterization of the
18 testimony of the DNA expert by the government lawyer, by my
19 colleague, by Meghan Walker, but we've also heard the DNA
20 expert testify. And I was writing this down as his
21 testified. He said that is not, that is not Maurice
22 Roberts. He said if that 12 is not a stutter, if it's an
23 allele, that is not Maurice Roberts. That's his testimony
24 of their expert of the swabs on the fist.

25 Speaking of corroborating evidence as to whether you

1 know somebody's mistaken about something or not, this is
2 about as reliable a form of evidence as I think may ever be
3 conceived.. Numbers into the decillions, nonillions, 31
4 zeros, 32 zeros. I mean, with -- we're advancing pretty
5 rapidly scientifically. I don't know that it's ever going
6 to get more reliable than that.

7 That was not Maurice's DNA on that fist; that's not
8 him. If that's not a stutter, that's not him. That's the
9 testimony, and that's the most reliable evidence that
10 you're going to hear in this case, and that's what I talked
11 about in the beginning.

12 I also talked about the government, and I also talked
13 about government agents, and I'm going to talk about, you
14 know, the behavior of some of the government agents during
15 this case and during, during their testimony, the way that
16 he was treated because when we talk about statements, you
17 heard a lot of people referring -- there were a lot of
18 references to paper. Ironically, the last line of
19 testimony in this case was Major Smith saying that's what
20 it says in the report. Well, that was his report. When I
21 asked him what does it say:

22 I arrived at 12:30. Maurice Roberts was taken
23 into custody soon after, soon after 12:30.

24 The reason that that was important to me was because
25 Lieutenant McDonald had testified that he could have left

1 at any time; he was free to go. He voluntarily came down
2 to the sheriff's department with him. That is a
3 contradiction. That's called impeaching him. I was
4 impeaching Lieutenant McDonald with Major Smith's own
5 statement. And his response to that was the same as Jwan
6 Duckett's response, frankly. That's what it says in the
7 paper. They were confronting their witnesses that they put
8 on the stand to come here and tell you things with these
9 pieces of paper when they were all typed up and drafted by
10 the investigators in this case.

11 Now, am I imputing any impure motives or anything?
12 I'm sure that they believed that they were on the right
13 track and that they were, that they were narrowing this
14 down, and that they, they were solving this thing.

15 What I am saying is, and what I'm saying and arguing
16 is actually corroborated by the witness testimony is they
17 fall back on these papers, on the paperwork in whatever way
18 suits their purpose. If a witness is saying something that
19 they don't like that's supposed to be saying what they want
20 them to say, what about what's on, on this paper?

21 If Major Smith is testifying, then he says, oh, that's
22 just in the paper. So, on the one hand, papers that
23 they're throwing around are rock solid. You see his
24 statement here. He said X, Y, Z. That's the presentation
25 of this statement of these papers typed by Lieutenant

1 McDonald that they say is what he said. But then the flip
2 side to that is when it doesn't go along with their purpose
3 or what they're trying to present to you, well, that's just
4 in the report. That's just what the report says. The
5 report's inaccurate.

6 And that's the point that I'm trying to make about the
7 papers. If you want to know what somebody says, Lieutenant
8 McDonald says the truest, the truest form of recording a
9 statement is on paper. I asked what about taping it, and I
10 know -- I don't think there's tape anymore, but y'all know
11 what I'm talking about, digitally recording. What about
12 that? Well, something could happen to that. What about
13 videotape? Would it be ideal if rather than putting
14 something up here that's going to be disputed -- it is in
15 dispute -- and just reading something that's typed by a
16 police office that has a little signature on the bottom,
17 how about this idea? What about a CD player, a -- or a
18 digital audio player, or I guess they hook computer and
19 speakers. What about the sound of people's voices when
20 they are saying -- confronting Duckett, or they're saying
21 that Maurice said something? What about a TV, and what
22 about hitting play, and what about watching that?
23 Lexington does it; Lexington does video. City of Columbia
24 does audio. I asked about this. Kershaw, which is in the
25 same circuit, does videotape. His answer is, well, it's

1 our policy, our policy. That's the answer that he gives.

2 Well, I mean, ultimately what, what does it serve?
3 The, the testimony is they sat around. He was in custody
4 or not in custody according to McDonald, but in custody
5 according to Major Smith for two, two and a half hours,
6 something to that extent. It takes how much time to sign a
7 piece of paper? How much time to read it? He testified I
8 read it to him is what he testified to. I asked. Well, is
9 -- do you know anything about any special ed cases or --
10 and he said no. No, no. I always read it.

11 And when he was saying that it was free and it was
12 voluntary, I told him I'm not going to put a gun to your
13 head. Now, he volunteered that on the stand: I'm not going
14 to put a gun to your head. I would think anyone upon
15 hearing that -- I mean, how, how is any reasonable person
16 supposed to take that statement when they're in custody?
17 They're down at the sheriff's department; they're locked in
18 there. There are officers everywhere. They're in an
19 office with two to three, according to the testimony -- I'm
20 sorry. I'm starting to get a little dry mouth up here
21 talking so much. But two to three officers at any time.
22 They're all armed, and you don't have to sign it. I'm not
23 going to put a gun to your head. How would a reasonable
24 person take that? Would they take that as -- whether it
25 was meant to be a threat or not, is that threatening? I

1 believe it is; I believe it is. I believe it's reasonable
2 to, to feel threatened.

3 You're seventeen years old. I cannot imagine being
4 seventeen years old under circumstances like that. So, the
5 idea that the, you know, the defense is going to be, you
6 know, the government here, just, just be afraid of it,
7 that's nonsense.

8 What the defense is, it's based on science, and it's
9 based on facts, and it's based on their testimony that it
10 is just better to write -- for us to write things and for
11 people to sign them. It's more reliable; it's more
12 credible. People would believe those more than an audio or
13 a video.

14 I did come up, and I actually spoke about Deshawn
15 McClary. 600 has a 600 tattoo on, on his shoulder.
16 Demetrice James. Vincent Nelson. I said where is this DNA
17 evidence going to point to? Is it going to point to him or
18 away from him? Is it going to point to someone up here or
19 away from them?

20 The hard science to a scientific certainty -- again
21 that I'm sure will never be surpassed; I can't say never,
22 but it would be extraordinary -- shows this. He had
23 gloves, but he was inside. He did have gloves. There were
24 gloves with his DNA inside and with, with blood on the
25 outside, but he, he had gloves on. So, at some, at some

1 point during this, he put on gloves. His DNA is on those
2 gloves. His DNA is at the scene. What is it, a beer can
3 or cigarette butt, whatever he was testifying to at that
4 point.

5 And these young men know him, and they've known him
6 for a year or two because these are good people is why they
7 know him. This is a troubled young man. You all remember
8 the map of where Maurice's place is and where they were
9 looking at this stuff. It's not right behind his house,
10 but I'll leave that to your memory. It's over in the same
11 neighborhood.

12 But what was he doing over at Maurice's house? He was
13 sleeping there. He's homeless. He was taken in there as
14 he was taken in over at these good people's house, and they
15 took him to church. They fed him. They gave him money,
16 and you could tell from Mr. Chandler Davis's testimony that
17 some children are treated and looked upon as sons that
18 they, they help in this fashion. These are about the most
19 decent people I could think of, and this is what he does to
20 decent people, to people who are saving his life, whether
21 he realizes it or not.

22 They talk about, well, he's -- everybody's loyal to
23 Maurice. Everyone is afraid of little, seventeen-year-old
24 Maurice because why?

25 600, what does that mean? Whatever we know, we know

1 he has a 600 tattoo, and we know that Josh outside after
2 getting hit, after falling hears. don't do it, 600, don't do
3 it. That is uncontradicted by anything. In fact, it's
4 even supported by him.

5 Well, who were -- who would, who would be -- who would
6 anyone be speaking to? Don't do it, Fred. Don't do it,
7 Joe. Don't do it, 600. Who is 600 and who's not 600?

8 I heard Deshawn McClary get up there and oh, yes, he's
9 600. All of their other witnesses that came in that was in
10 custody who, frankly, have very little credibility --
11 everybody's self-interested. I mean, at least Mr. Duckett
12 is already doing his time for whatever he's done. So, he's
13 not -- maybe he should be the most credible person.

14 Ideally, I think if you weigh it out, you can rely
15 more on his testimony than on anybody else's. He says no.
16 He can't rat. He's not 600. Demetrice James, the innocent
17 bystander who's identified as, as shooting someone, even he
18 said no, no. He can't rat. He's not 600. Deshawn
19 McClary, oh, yes, he's -- he is 600. He's in 600.

20 Well, what's significant about that? What's
21 significant about that to me in listening to the
22 government's theory that evolved over the course of time,
23 over the course of the evidence in this case is apparently
24 this guy, Maurice, decided I'm going to switch identities
25 with him. I'm going to switch identities with him. I

1 mean, he comes in and he says exactly what they want him to
2 say. These people are supposed to come in and say -- and
3 they get confronted with the paper. I mean, he's still
4 looking at one life sentence plus ninety-something years.

5 Rapists, talk -- talking about rape, at one point she
6 said yeah, they're going around robbing somebody, but they
7 didn't kill anybody. And yet these are the same people
8 that are saying that they raped someone, and they kidnapped
9 them, and arm robbed them at the same time. That -- that's
10 -- that speaks a little something to credibility, I think,
11 about this one and this one.

12 Are they -- do they have a mutual interest here?
13 Well, are you cooperating against him? No. Are you
14 cooperating against him -- no -- in this separate case
15 where it's ninety years?

16 Ninety years at eighty-five percent is a lot of time;
17 it's a lot of time. They're not cooperating against each
18 other in that case, but they sure are here in this case to
19 cooperate against him.

20 And maybe he didn't get the message that Maurice --
21 and another thing. Maurice, that's -- it's Maurice. It's
22 not, you know, Metro, Young, this, that, J, G, this, that,
23 and the other. He didn't get the message that oh, no, no,
24 600 is Maurice because don't do it, 600. Don't do it.
25 That's, that's the testimony. That's what happened out

1 there when those shots were being fired. He said don't do
2 it, 600. Don't do it. Not don't do it, Maurice, because
3 it would have been because he's Maurice, no nicknames.
4 Nobody up here saying that he had this nickname, that
5 nickname, everybody else.

6 And it's fine to have nicknames. I mean, I'm -- my
7 name's Tiviş. My people are from up in the mountains,
8 They came over from Scotland. I'm the fourth. It's just a
9 name we keep going, and my son is the fifth. You know, my
10 grandpa was Junior. My dad's Chip. They call me Buck. I
11 call Tivi Tivi because we've rotated to where's there's
12 only -- it's just the way it goes, right?

13 But -- and he's Maurice, Jr., and there's nobody
14 calling him Junior or anything. His name is Maurice. So,
15 he, he doesn't fit there. He doesn't fit this, this
16 presentation, this.

17 If, if, if you all, if y'all are not going to believe
18 the -- all the stuff we threw up against the wall in this
19 case, well, just send him home, and that's -- she said.
20 Well, in amongst everything that they're throwing up
21 against the wall are actually some things that are pretty
22 solid.

23 With respect to the identifications, we did hear
24 testimony from both young men, who are not at fault here.
25 I've never implied that, and I never would. All good

1 people. From both young men [SNAPS FINGERS] instantly, and
2 I snapped my finger in cross-examination. Is this how
3 quick it was on? Yes. Trent was a little more effusive
4 and enthusiastic. He's got his kung fu stuff and it didn't
5 -- but both of them said immediately. The hangers hit the
6 floor. We get -- he comes. I get hit.

7 So, that's the length of time when there's no
8 engagement going on. That's the length of time where you
9 take a look at somebody that's got a -- or they've got
10 whatever they've got going on.

11 And why is that important? I'm not impugning their
12 character, but for identification, one of the things you've
13 got to consider is the length of time, opportunity somebody
14 had to view a person's face. Now, you may well get back
15 there and decide, well, sure but, you know, there were
16 other times there were, there were fighting going on.

17 However, this is significant because you kept hearing
18 the name Leonard Gaston. The reason that you kept hearing
19 the name Leonard Gaston is because he kept being inserted
20 into these lineups in the bottom right, or picture number
21 6. It's my view. I can't say in any way, shape, or form
22 that this young man that they were showing these pictures
23 to people was there, nor would I, but Troy picked him. He
24 said he was there.

25 Faust says -- what did he say? He said he gave me a

1 statement and he said yeah, he was there. That's the guy
2 that was in the house. But when I showed him the lineup,
3 he said wait a minute. No, no, that's not him. That was
4 his testimony, and we went back and forth about it for a
5 while, and he kept explaining, well, they're under the
6 influence of, of other people. They're under the influence
7 of people, not mindful of the irony of what his, his
8 testimony is putting out in front of y'all.

9 Well, if they're under the influence of other people,
10 if somebody's saying hey, it might be this guy, how about
11 under the influence of police officers putting pictures of
12 people they're known for two years in the same spot? And
13 then handing them lineup after lineup after lineup after
14 lineup where everybody they want them to pick is in that
15 same spot? I'm wondering if maybe that is as suggestive or
16 influential as, as he testified as a friend saying hey,
17 that sounds like this dude I know. And, I mean, I wonder.
18 That's why this is significant, and for whatever reason, it
19 was like pulling teeth until the timeline started to get
20 straight, and that's fine.

21 You know, all, all of these law enforcement officers,
22 they're not a bunch of, you know, nefarious characters, you
23 know, trying to destroy people's lives. They're out there,
24 and they're on a mission, and they believe in it, and they
25 believe in it, and they're following it, and they're doing

1 the best they can, and they jump to the wrong conclusions
2 sometimes. I mean, it happens. They do things wrong
3 sometimes.

4 His enthusiasm to get up here and try and explain away
5 this. You know, remember oh, I never forget a face? Did
6 you tell Faust that he was in there? No. Well, lineup,
7 lineup -- no; I, I never forget a face. I said okay, I see
8 you're anticipating where I'm going. Well, we're all human
9 beings and there ain't nothing -- I mean, there ain't
10 nothing wrong with that, but, you know, this, this, this is
11 what -- the state, now it was in papers. But, I mean, I
12 suspect when people are telling them what they hear, they
13 might, you know, treat it a little differently.

14 So, we're talking about identifications, and we are
15 sticking, by and large, with what I said in the opening.
16 So, that, that's the defense in this case. We should be
17 very wary of government agents coming in, overwhelming
18 people, seventeen-year-old kids.

19 Now, these kids up here, twenty, twenty-one,
20 twenty-two, young people do awful things. You know,
21 there's no doubt about that. You know, rapes, armed
22 robberies and that, but it is maybe different sometimes to,
23 to recall what we're hearing, especially the way the media
24 hypes itself up, about, you know, all this violence in
25 everything. It may be difficult to keep in mind that we're

1 still talking about kids here; we're talking about kids
2 here. We're talking about troubled kids here, but we're
3 not talking about him. He's not 600; he's not.

4 I mean, if you want to do baseball scores, ladies and
5 gentlemen, or however you want to think it. I can't tell
6 you how because y'all are judging the facts. You just put
7 up the numbers. How many of their witnesses that are
8 supposed to be saying what they want them to say said he
9 is, and how many said he ain't?

10 Ultimately, people, we've got burglary, a prior
11 burglary here. Was it -- prior robbery here. Those are
12 actually impeachable offenses, and those are things, you
13 know, that you're supposed to consider.

14 How about this? Eleven, twelve days before this, the
15 600 tattoo guy, eleven, twelve days before this, he's
16 arrested in Hammond Village, according to Major Smith.
17 He's charged with possession of a weapon by a person
18 convicted of a violent crime. Was it a .45? Was it a
19 .380? Was it an AR-15? Was it an AK-47? Well, what are
20 we talking about here? We don't know, but this is eleven
21 or twelve days this person that's saying I saw the gun. I
22 saw it before; I saw it after. Switches up a little bit,
23 whatever. I saw it. It's his. I saw it before we left; I
24 saw it before we got back. Eleven, twelve days later, that
25 charge is pending in that office. So, if they're accusing

1 him of that, if they arrested him with a firearm or accused
2 him of discharging a firearm, whatever they accused him of,
3 we know within less than two weeks he was armed because
4 some of their agents are alleging that. So, according to
5 them, he had the gun within the two weeks before this
6 period of time.

7 All that I can, all that I can do and all that I can
8 ask is look at the evidence. Look at the law. And, you
9 know, she says, well, you don't believe this, you don't
10 believe that, well, let him go. What, what it is is if you
11 have reason to doubt something, if something's making you
12 pause or making you hesitate a little bit, that's what a
13 reasonable doubt is. That's the degree -- you have to be
14 firmly convinced with no hesitation, no hesitation.

15 The judge is going to instruct y'all on the law, but
16 I'll just hang that out there. That's what the law is
17 about reasonable doubt, no hesitation about this.

18 Well, just in the opening, the DNA expert and Faust,
19 we have IDs, we have hard science, and we have all this
20 testimony, all the statements, and I probably should add --
21 because I linked him to Major Smith -- to put Duckett,
22 Major Smith because they both talked about these law
23 enforcement papers in different ways. Him: Well, that's
24 what it says there. Him: Well, it says that there. That's
25 what -- completely different. No, I don't remember that.

1 That's in what you're showing me. Well, that's only in
2 what you're asking me about.. Just polar opposites up here.

3 I think I should put probably -- add -- I'm sorry for
4 the mess, but I don't have machines that create this sort
5 of stuff. I do have a Sharpie, though.

6 (A PAUSE.)

7 MR. SUTHERLAND: Lieutenant McDonald, and I'm going to
8 sort of link him to Major Smith just to make that point.
9 Let's put voluntary statement. Custody is the key here.
10 We talked to him. He said he'd come on out in the car with
11 us. He said sure. Come on down. Then he just started
12 talking to us. He waived his rights, all that. He was not
13 in custody; he was free to leave at any time.

14 Major Smith arrived at 12:30. Maurice was in custody
15 shortly after I arrived. After he arrived before they
16 left. Again, that's impeachment.

17 Now, Lieutenant -- or Captain McDonald. He got
18 promoted two weeks ago. Where's he at? Okay, sorry.
19 Captain McDonald, and that's just to show a couple of the
20 points that I'm making. They're inconsistent with one
21 another about whether he was in custody. It's important
22 about whether he was in custody, whether he was under
23 arrest, or whether he was free to leave. That's
24 significant, the amount of control the police officers have
25 over you. Well, hey, you don't have to sign it. I'm not

1 going to put a gun to your head. Maybe it's one thing
2 that, I don't know, that might still be pretty unnerving,
3 sitting right out in your own front yard.

4 But this is real. You should be wary of the
5 government indeed because that, sitting over there, every
6 time we buy anything from a hotdog to a house, the
7 government gets a cut, okay? All that power in these
8 proceedings is focused here on that kid, Maurice, right
9 over there. All the resources that are available to them,
10 they're prosecuting him, okay? That's power versus a kid.

11 I'm sitting over there with him, and I will stand with
12 him throughout this process. I don't have a problem with
13 that. But, I mean, I want to be clear. We've got power
14 versus a kid. And what we have, speaking about the
15 constitution in passing, are the protections: his right to
16 have me come up here and to help him, his right not to have
17 to talk to police, his right to have a statement not be
18 considered if it wasn't freely and voluntarily given, if
19 this was a threat. Was he in custody? Was he not in
20 custody? These are all the sorts of things y'all are going
21 to be going through.

22 I'm going to look through my little notes here and
23 make sure I haven't left anything out. I mean, I feel like
24 I've said everything any -- anyway because the same
25 principles apply across the board to all the evidence in

1 the case.

2 (A PAUSE.)

3 MR. SUTHERLAND: Well, I forgot to mention -- there
4 was mention of gunshot residue tests that they did on three
5 guys that they stopped near the incident location that were
6 dressed similarly, similar descriptions. What happened to
7 the gunshot residue tests? Would that be significant?
8 Might be something you'd want to know.

9 Ladies and gentlemen, I have to tell you that's it. I
10 certainly appreciate your consideration and your
11 willingness to serve here. This is, as we talked about in
12 the beginning, in peacetime, this is about as significant
13 as it gets because this defines who we are. This is man's
14 relationship, woman's relationship to her government and,
15 you know, what are the limits? What are the boundaries?
16 How far can they go? What can they do to a person? What
17 can they do to a guilty person? It's the same thing they
18 can do to an innocent person. They can do it to one
19 person; they can do it to all of us.

20 Thanks again for your time and consideration, and very
21 much appreciate it.

22 Thank you, sir.

23 THE COURT: Mr. Foreman, ladies and gentlemen, we've
24 been at it almost two hours. Let's take a quick bathroom
25 break and let my court reporter stretch herself, and we'll

1 come back in about ten minutes. I'll charge you. Then it
2 will be turned over to you to start your deliberations.
3 However, do not start any deliberations until we finish all
4 these proceedings.

5 Everybody remain seated, please.

6 (THE JURY EXITS AT 10:41 AM.)

7 THE COURT: All right, we'll stand at ease for about
8 ten minutes.

9 (OFF THE RECORD.)

10 THE COURT: Anything from the state before we start?

11 MS. WALKER: Nothing from the state, Your Honor.

12 Sorry.

13 MR. SUTHERLAND: Nothing from defense, sir.

14 THE COURT: Thank you.

15 All right, bring the jury in.

16 (THE JURY ENTERS AT 10:55 AM.)

17 *JURY CHARGE*

18 THE COURT: Mr. Foreman, ladies and gentlemen of the
19 jury, the charge is really what we just call instructions.
20 You'll hear a lot of the same things that you've heard in
21 closing arguments with the lawyers who were explaining, but
22 my charges is sort of broken down into two parts. The
23 first part deals with general principles of criminal law
24 that I charge in all cases involving a general sessions
25 case. Once we go through that, then we will go into the

1 four separate offenses that are involved in this case.

2 Let me, before I really get started, let me remind you
3 in this case, the defendant is charged with five
4 indictments. They are indictment for murder, two
5 indictments for attempted murder, an indictment for
6 attempted armed robbery, and an indictment for burglary in
7 the first degree.

8 Now, let me once again remind you the fact that he has
9 been charged and arrested and indicted, that is not
10 evidence in the case. There should be no inferences of
11 guilt from the fact that he was indicted. The indictments
12 are simply the charging documents by way this case comes
13 into the courtroom.

14 As I said, there are five indictments. Each
15 indictment charges a separate and distinct offense. You
16 must decide each indictment separately on the evidence and
17 the law applicable to it, uninfluenced by your decision as
18 to any other indictment. He may be convicted or acquitted
19 on any or all of the offenses charged, and you will be
20 asked to write a separate verdict of not guilty or guilty
21 for each indictment. So, at the end when I hand you the
22 verdict form, that will be five verdict forms for the five
23 indictments. You must consider each one of those separate
24 and apart from the others.

25 To these five indictments, the defendant has pled not

1 guilty, and a plea of not guilty puts the burden on the
2 State of South Carolina to prove the defendant guilty by
3 proof beyond a reasonable doubt.

4 A person charged with committing a criminal offense in
5 our state is never, never required to prove himself
6 innocent. I charge and instruct you that it is an
7 important constitutional rule of law that a defendant in a
8 criminal trial, no matter how serious the charges may be,
9 will always be presumed to be innocent of the crimes for
10 which he was indicted unless guilt is proven to you by
11 evidence satisfying you of that guilt beyond a reasonable
12 doubt.

13 Presumption of innocence does not end when you start
14 your deliberations, but it stays with the defendant
15 throughout the trial until you reach a verdict of guilt
16 based on evidence satisfying you of that guilt beyond a
17 reasonable doubt.

18 The presumption of innocence is not a mere legal
19 theory or phrase. As I said, it is a substantial
20 constitutional right to which every defendant is entitled
21 unless you, the jury, are satisfied from the evidence that
22 the defendant's guilt has been proven to you beyond a
23 reasonable doubt.

24 What is a reasonable doubt? Our courts have defined
25 reasonable doubt many, many times in the past. The real

1 short definition of reasonable doubt is the kind of doubt
2 that would cause a reasonable person to hesitate to act,
3 the kind of doubt that would cause a reasonable person to
4 hesitate to act.

5 The state has the burden of proving the defendant
6 guilty of all five indictments beyond a reasonable doubt.
7 Proof beyond a reasonable doubt is proof that leaves you
8 firmly convinced of the defendant's guilt. As you've heard
9 before, there are very few things in the world that we know
10 with absolute certainty, and in criminal cases the law does
11 not require proof that overcomes every possible doubt. If,
12 based on your consideration of the evidence, you are firmly
13 convinced that the defendant is guilty of the crimes
14 charged, then you must find him guilty. However, if, on
15 the other hand, there is a real possibility that the
16 defendant is not guilty, then you must give him the benefit
17 of the doubt and find him not guilty.

18 Let me remind you, ladies and gentlemen, that during
19 the trial of the case, you and I have had separate and
20 distinct duties to perform. My duties are mainly twofold:
21 to instruct and charge you on the law, and to rule on the
22 admissibility of evidence. Once that evidence is admitted
23 into the trial of the case, it becomes up to you to
24 determine what the true facts are. You are, as I told you
25 earlier, collectively acting as one. You are the judge of

1 the facts.

2 Now, please. This been a five-day trial, and if I
3 have done anything up here to make you think I have an
4 opinion about the facts please, disregard it. The law does
5 not allow me to have any opinion whatsoever about the
6 facts. That is your sole providence, your duty, your
7 responsibility, and I can't have anything to do with that.
8 So, if I have smiled or frowned or raised my eyebrows or
9 bit on my glasses or acted aggravated or whatever, that's
10 just me. I'm not commenting on the facts; I just can't do
11 that. So, don't infer from anything I've done that I have
12 an opinion of these facts. That's, that's your job and
13 your job only. That's obviously, as I told you Monday,
14 Tuesday, that's the biggest job in the whole trial of this
15 case, your responsibility.

16 And in carrying out that responsibility, necessarily
17 you must determine the credibility of the witnesses who
18 have testified in this case. Credibility simply means
19 believability: what do you believe. It becomes your duty
20 as jurors to analyze and evaluate the evidence and
21 determine which evidence convinces you of its truth.

22 Now, in carrying out this responsibility or this
23 obligation to determine the believability or credibility of
24 the witnesses who have testified in this case, you can
25 believe one witness over several, several over one. You

1 can disbelieve everything a witness says. You can believe
2 a portion and disbelieve a portion. In other words, use
3 your everyday commonsense in dealing with fellow citizens,
4 family, employees, whatever. You know how to judge when
5 somebody is telling you the truth. So, it becomes your
6 duty to determine what the true facts are in the case.

7 You may consider whether any witness has exhibited to
8 you any interest, bias, prejudice, or other motive in this
9 case. Also you may consider how the witness appeared and
10 his mannerisms on the witness stand while he testified.

11 In this case, we qualified several people as experts
12 in several fields. Normally our rules of evidence do not
13 permit a witness to testify to opinions or conclusions. An
14 exception to this rule is what we call the expert witness
15 rule. A person or a witness who by education and
16 experience has become expert in some art, science,
17 profession, or calling may state an opinion as to relevant
18 and material matters in which the witness claims to be an
19 expert, and may also state the reasons for that opinion.

20 You should consider any expert opinion evidence
21 received in this case like any other evidence and give it
22 the weight you think it deserves, if any. If you decide
23 that the opinion of an expert witness is not based on
24 sufficient education and experience, or if you conclude
25 that the reasons given in support of the opinion are not

1 sound, or that the opinion is outweighed by other evidence,
2 you can disregard the expert's opinion entirely.

3 An expert witness's testimony is to be given no
4 greater weight than that of any other witness simply
5 because the witness is an expert. Further, you are not
6 required to accept an expert's opinion even though it is
7 not contradicted.

8 Another substantial constitutional protection that
9 people have who are accused of crimes is that they have the
10 right, the absolute right, the constitutional right to
11 remain silent. They do not have to testify. So, I charge
12 you, instruct you, and emphasize the fact that the
13 defendant did not testify in this case is not a factor to
14 be considered by you in any manner whatsoever in your
15 deliberations and in your consideration on the question of
16 the guilt or the innocence of the defendant. As I said, it
17 must not be considered by you in any manner whatsoever. A
18 defendant has the constitutional right to remain silent,
19 and the assertion of that right must not be considered by
20 you in your deliberations. I repeat. Under your oath, you
21 are to draw absolutely no conclusion whatsoever from the
22 fact the defendant did not testify in this case. The fact
23 that he did not testify should not even be discussed in the
24 jury room.

25 As I've told you, the burden of proof is on the State

1 of South Carolina, and the defendant is not required to
2 prove his innocence. The burden of proof remains on the
3 state to prove guilt beyond a reasonable doubt. So, the
4 fact that he did not testify is something that should not
5 be considered, nor be discussed when you deliberate his
6 guilt or innocence.

7 In this case, there is a legal theory that from your
8 view of the evidence may be applicable. It's called hand
9 of one. If a crime is committed by two or more people who
10 are acting together in committing a crime, the act of one
11 is the act of all. A person who joins with another to
12 accomplish an illegal purpose is criminally responsible for
13 everything done by the other person which occurs as a
14 natural consequence of the acts done in carrying out the
15 common plan and purpose.

16 And example is often given that two people can be
17 guilty of killing another person, and only one of the two
18 had a gun, and there was only one bullet, and only one of
19 the two fired the shot that caused the death. If two or
20 more people are together, acting together, assisting each
21 other in committing the offense, the act of one is the act
22 of all, or as it's sometimes stated the hand of one is the
23 hand of all.

24 Prior knowledge that a crime is going to be committed
25 without more is not sufficient to make a person guilty of

1 that crime. Mere knowledge that another person is going to
2 commit a crime, even if the defendant is present when the
3 crime is committed, is not sufficient to convict the
4 defendant as a principal participant. Guilt as a principal
5 is shown by actual or constructive presence at the scene as
6 a result of a prior arrangement. Therefore, the finding of
7 a prior arrangement or common scheme is necessary for a
8 finding of guilt as the principal of the offense.

9 The state must prove beyond a reasonable doubt by
10 competent evidence the theory of the hand of one is the
11 hand of all. Where two or more people acting with a common
12 plan or intent are present at the commission of a crime, it
13 does not matter who actually commits the crime. All are
14 guilty. The hand of one is the hand of all.

15 Present at the commission of a crime means to be
16 sufficiently near to aid and abet and assist in the
17 commission of the crime; however, mere presence is not
18 sufficient. I tell you again. If two or more people
19 combine together to commit an unlawful act, such as a
20 robbery, and in the execution of that criminal act a
21 homicide is committed by one of the actors as a probable or
22 natural consequence of the acts done in pursuit of the
23 common desire, all present participating in the unlawful
24 undertaking are as guilty as the one who committed the
25 fatal act.

1 The common purpose may not have been to kill and
2 murder. But if it was unlawful -- as, for instance, to
3 break in and steal -- and in the execution of this common
4 purpose is a homicide that's committed, if during the
5 execution of this common purpose a homicide is committed
6 that by one as a probable or natural consequence of the
7 acts done in pursuit of the common design, then all present
8 participating in the unlawful common acts are as guilty as
9 the one pulling the trigger. That's the law dealing with
10 the hand of one is the hand of all.

11 An issue in this case may be or is claimed to be the
12 identification of the defendant as the person who committed
13 the crime charged. And state has the burden of proving
14 identity beyond a reasonable doubt. You must be satisfied
15 beyond a reasonable doubt of the accuracy of the
16 identification of the defendant before you may convict the
17 defendant.

18 Identification testimony is an expression of belief or
19 impression by a witness. You must determine the accuracy
20 of the identification of the defendant. You must consider
21 the believability of each identification witness in the
22 same way as any other witness. You may consider whether
23 the witness had an adequate opportunity to observe the
24 offender at the time of the offense. This will be affected
25 by things as how long or short a time was available, how

1 far or close the witness was, the lighting conditions, and
2 whether the witness had a chance to see or know the person
3 in the past.

4 Once again I instruct you the burden of proof on the
5 state extends to every element of the crime charged, and
6 this specifically includes the burden of proving beyond a
7 reasonable doubt the identity of the defendant as the
8 person who committed the crime or participated in the
9 commission of the crime. If, after examining the
10 testimony, you have reasonable doubt as to the accuracy of
11 the identification, then you must find the defendant not
12 guilty.

13 In this case, we had several witnesses who testified,
14 and they have a past criminal record. A person who has a
15 past criminal record is competent to testify during a
16 trial. A past record does not affect the ability of that
17 witness to testify. Past record may only be considered by
18 you, if at all, in determining the credibility or the
19 believability of the witness. So, they are competent to
20 testify, and the only consideration you can give on the
21 past record is using that to determine his or her
22 believability or credibility.

23 In this case, a statement alleged to have been made by
24 the defendant has been admitted into evidence in this case.
25 One of the things we had to do was determine whether or not

1 that statement was admissible. I made the decision that it
2 is admissible, but you make the ultimate decision of
3 whether or not state -- strike that -- as to whether or not
4 the defendant made the statement.

5 If the defendant did make the statement, then you must
6 determine whether the statement was made by the defendant
7 voluntarily and of his own free will. This means that the
8 statement was not caused by pressure, force, fear, threats,
9 coercion, or intimidation, or by any hope or promise of
10 leniency, or a reward of any kind.

11 In determining whether the statement was voluntary,
12 you should consider both the characteristics of the
13 defendant and the details of the questioning. Some of the
14 facts that you may consider are the age of the defendant;
15 the defendant's education or lack thereof; his mental
16 ability or capacity, his intelligence, his background and
17 environment; the place and length of the detention, the
18 nature of the questions; and the advice or lack thereof to
19 the defendant of his constitutional rights to remain
20 silent; the statement could be used against him in a court
21 of law; the right to have a lawyer present; if he cannot
22 afford a lawyer, a lawyer would be appointed to represent
23 him; and that he could stop making a statement at any time.
24 You must carefully consider all of the surrounding
25 circumstances before you give any weight to an alleged

1 statement.

2 The state has the burden of proving beyond a
3 reasonable doubt that the alleged statement was voluntary.
4 If you determine it was, you may give the statement any
5 further consideration that you deem proper. You must,
6 therefore, decide what weight, if any, should be given to
7 the alleged statement. If you determine the alleged
8 statement was not the free and voluntary statement of the
9 defendant, you should not consider it at all.

10 All right, Mr. Foreman, ladies and gentlemen of the
11 jury, that's sort of the general propositions of law and
12 constitutional protections that we have in most all cases,
13 except this case the hand of one is the hand of all is not
14 necessarily in all cases. It's just when you have a group
15 participating or allegedly participating.

16 Let's turn now. There are five indictments, four
17 separate offenses. So, we'll take them one at the time.
18 In one of the indictments, the defendant is charged with
19 murder. The state must prove beyond a reasonable doubt
20 that the defendant killed another person with malice
21 aforethought, killed another person with malice
22 aforethought. Malice has been defined by our courts is
23 hatred, ill will, or hostility towards another person. It
24 is the intentional doing of a wrongful act without just
25 cause or excuse and with intent to inflict an injury, or

1 under circumstances that the law will infer an evil intent.

2 Malice aforethought does not require that malice exist
3 for any particular time before the act was committed, but
4 malice must exist in the mind of the defendant just before
5 and at the time of -- the act is committed. Therefore,
6 there must be a combination of the previous evil intent and
7 the act.

8 Malice aforethought can be either expressed malice or
9 inferred malice aforethought. The terms expressed and
10 inferred do not mean that there are different kinds of
11 malice, but merely the manner in which malice may be shown
12 to exist. That is either by direct evidence or by
13 inference from the facts and circumstances which are
14 proved.

15 Expressed malice is shown when a person speaks words
16 which express hatred or ill will for another, or when the
17 person prepared beforehand to do the act which was later
18 accomplished. For example, lying in wait for a person or
19 any other acts of preparation going to show that the deed
20 was within the defendant's mind would be expressed malice.
21 Malice may be inferred from conduct showing a total
22 disregard for human life.

23 The law says that if one intentionally kills another
24 during the commission of a felony, in implication of malice
25 may arise. If facts are proved beyond a reasonable doubt

1 sufficient to raise an inference of malice to your
2 satisfaction, this inference would be simply an evidentiary
3 fact to be taken into consideration by you, the jury, along
4 with other evidence in the case, and you may give it such
5 weight as you determine it should receive.

6 The law also allows the jury to infer malice if you
7 conclude that the murder was a proximate, direct result of
8 the commission of a felony. And for that regard, armed
9 robbery and burglary in the first degree would be felonies
10 under our law. You can imply that malice existed if a
11 person is in the commission of a felony at the time of the
12 fatal blow or shot. So, that is the law on murder. State
13 must prove beyond a reasonable doubt that the defendant
14 killed another person with malice aforethought.

15 Now, we have two indictments dealing with attempted
16 murder, and attempted murder, he's charged with that. That
17 is simply in order to prove this crime, the state must
18 prove the crime of attempted murder. The state must prove
19 the defendant attempted to kill another person with malice
20 aforethought, either expressed or implied. It's the same
21 thing as except this is an attempt, and the law defines an
22 attempt is an effort to accomplish a crime which did not
23 succeed. An attempt includes a specific act, to do a
24 particular criminal act, along with act falling short of
25 the act intended. You intended to do something but fell

1 short of it. That's attempted murder. You attempted to
2 kill someone with malice aforethought.

3 The state must show more than mere preparation and
4 intent. There's must be some overt act committed in the
5 effort to commit the crime. Intent means intending the
6 result which actually occurs, not accidentally or
7 voluntarily. Intent may be shown by acts and conduct of
8 the defendant and other circumstances from which you may
9 naturally and reasonably infer intent. So, that's the
10 burden that the state must meet on the attempted murder: he
11 attempted to commit the crime of murder, killing someone
12 with malice aforethought. Attempting.

13 Now, there are two other offenses that we have the
14 indictments for. I got to take them in one order or the
15 other, so don't put any significance in the order I'm
16 placing them. Let's talk about first-degree burglary.

17 The defendant is indicted and charged with burglary in
18 the first degree. The state must first prove beyond a
19 reasonable doubt, first thing they must prove beyond a
20 reasonable doubt: that the defendant entered a dwelling
21 without consent. Our law defines a dwelling as any
22 building or portion of a building in which a person
23 ordinarily sleeps. So, they first must prove that the
24 defendant entered a building where someone sleeps, without
25 consent, beyond a reasonable doubt.

1 Now, order that -- strike that. In order to prove
2 that the defendant entered the dwelling, the state does not
3 have to show that the defendant's entire body entered the
4 dwelling. The smallest entry is sufficient. It may be any
5 part of the body, such as a hand or foot or even an
6 instrument. And the state does not have to prove that
7 force was used to gain entry.

8 Now, the second element of the burglary in the first
9 degree is that the state must prove beyond a reasonable
10 doubt that the defendant intended to commit a crime, either
11 a felony or misdemeanor, at the time of the entry. The
12 mere entry into a dwelling without consent is not burglary.
13 If the intent to commit a crime is formed after the entry,
14 it is not burglary. However, on the other hand, if the
15 defendant intended to commit a crime at the time of the
16 entry, it is a burglary even if the intent was abandoned,
17 and it does not matter that the intended crime was not
18 completed. So, the state must prove beyond a reasonable
19 doubt that a person has entered a dwelling without consent,
20 and that he intended to commit a crime at the time of the
21 entry. And then the state must prove beyond a reasonable
22 doubt one of several things. The first one is this, and
23 these are and/or. All they have to do is one of them; they
24 don't have to prove all of them.

25 When entering the dwelling and while in the dwelling

1 or when leaving the dwelling, the defendant or an
2 accomplice was armed with a deadly weapon. A deadly weapon
3 has been defined by our courts to include a pistol. Or,
4 and/or when entering and while in the dwelling or when
5 leaving, the defendant or an accomplice caused physical
6 injury to anyone not participating in the crime. And/or
7 when entering, while in the dwelling or when fleeing, the
8 defendant or an accomplice used or threatened to use a
9 dangerous object. And, and/or when entering, while in the
10 dwelling or when fleeing, the defendant or an accomplice
11 displayed what was or appeared to be a pistol, knife,
12 revolver, and other types of firearms. And/or the
13 defendant entered or remained in the dwelling in the
14 nighttime. The courts have defined nighttime as the period
15 between sunset and sunrise when there is not enough
16 daylight to a person's face except by artificial light or
17 the moonlight. So, that is burglary in the first degree.

18 And the last indictment is attempted armed robbery.
19 In order to prove the defendant is guilty of the crime of
20 attempted armed robbery, the state must first prove to you
21 beyond a reasonable doubt that the defendant attempted to
22 take personal property from the person or presence of
23 another person. Property is the presence of a person if it
24 is within that person's reach, control. Or so the person
25 could, if not overcome with violence or prevented by fear,

1 keep possession of the property. So, first element is the
2 state must prove beyond a reasonable doubt that the
3 defendant attempted to take personal property from the
4 person of another, from another person.

5 The state must also prove beyond a reasonable doubt
6 that the defendant attempted to carry the property away,
7 intending to permanently deprive the owner of the property,
8 and to keep the property for the defendant's own use. The
9 slightest removal of the property or the complete
10 possession of the property, even for an instant, by the
11 defendant is sufficient to show a taking and carrying away
12 of the property.

13 The taking and carrying away of the property, or the
14 attempt to take and carry away the property, must be have
15 been done with violence or by putting the owner of the
16 property in fear of violence.

17 And the third thing the state must prove beyond a
18 reasonable doubt, that while attempting to commit the
19 robbery, the defendant was armed with a deadly weapon, and
20 a deadly weapon is defined as any type of instrument which
21 is likely to cause death or great bodily harm. So, those
22 are the elements of attempted armed robbery.

23 Mr. Foreman, you will have in the jury room a number
24 of things. Obviously, you will have all of the exhibits to
25 review, however you wish to review them.

1 You will have a verdict form as to all five
2 indictments. They are simply, simply written: As to the
3 offense of murder, we find the defendant not guilty or we
4 find the defendant guilty. I have two for the attempted
5 murder, and in those two we have identified on one
6 indictment or one verdict form the attempted murder of
7 Joshua Williams, and the other one is for the attempted
8 murder of Trenton Scott. So, you'll have -- those will be
9 identified, and then obviously you've got the verdict form
10 for burglary first degree and attempted armed robbery. All
11 of them have two choices: not guilty or guilty.

12 Your verdict must be unanimous; all twelve of you must
13 unanimously agree as to the verdict as to each, each
14 indictment, all five indictments. You are not -- in
15 considering your verdict, in reaching your verdict, we're
16 not here to punish any enemies, reward any friends. You
17 are to make a deliberation based on -- deliberate
18 deliberation based on the evidence, determining what the
19 true evidence, what the true facts are, applying that to my
20 instructions. And then you will be in a position to render
21 a verdict of either not guilty or guilty.

22 Verdict simply means to speak the truth. That's what
23 you're doing as representatives of the community in
24 deciding this matter.

25 There are times when you deliberate that you may have

1 a question that you want to ask me, and questions range
2 anywhere from A to Z, and here's the protocol. If you have
3 a question, please write it out on a, on a pad that they'll
4 have back there for you. Knock on the door and hand it to
5 the bailiff, and he'll hand it to me, and I'll discuss it
6 with the lawyers. Sometimes I can answer it; sometimes I
7 can't. It just depends on what the question is, but I will
8 do my best to, if I can answer it, to answer it. If I
9 can't, I tell you I can't answer it, and I'll give you the
10 reason after it's all over and said and done.

11 So, we're now at the point in the trial where we're
12 going to turn it over to you and your eleven jurors. I'm
13 going to ask you to return to your jury room. We have
14 ordered lunch for you. I'm not sure when it will get here.
15 Shouldn't be too long. You have the choice when the lunch
16 comes to stop deliberating and eat, or you can deliberate
17 while you eat. I just can't let you go out once I start --
18 once you start deliberating, so you're back there jury
19 room. So, y'all are in charge of doing it however you want
20 to.

21 So, I'm going to ask you to go back there in just a
22 few minutes. I'm going to ask you. Do not start yet
23 deliberating. I have to make sure that we have all the
24 exhibits collected. They'll be brought back to you, and I
25 have to ask the lawyers if I've left anything out, or I

1 said anything they want me to change. That won't take us
2 but five minutes, and then once the bailiff brings you the
3 verdict forms and the exhibits, then you may commence your
4 deliberation, okay?

5 Mr. Bailiff, if you would put my twelve jurors in the
6 jury room. Separate my two alternates, and I'll come back
7 and talk with them in just a few minutes.

8 Everybody else remain seated.

9 (THE JURY EXITS AT 11:30 AM.)

10 THE COURT: Any objections, requested additions, or
11 deletions by the state?

12 MS. CAMPBELL: Your Honor, the only thing I think we
13 discussed yesterday that wasn't in was with the attempted
14 murder. There was a paragraph about specific intent to
15 kill, and Mr. Sutherland requested we delete a sentence out
16 of that, which we agreed to that. And I believe that was
17 the only thing we would have any anything to say about.

18 THE COURT: You happen to have that with you, Ms.
19 Campbell?

20 MS. CAMPBELL: I have it upstairs.

21 THE COURT: I've got it.

22 (A PAUSE.)

23 THE COURT: Other than that, anything else, ma'am?

24 MS. CAMPBELL: No, sir.

25 THE COURT: Mr. Sutherland, any ---

1 MR. SUTHERLAND: No, sir.

2 THE COURT: --- exceptions, deletions?

3 MR. SUTHERLAND: No exceptions, sir.

4 MS. CAMPBELL: It's just this paragraph. That it.

5 There was a sentence I remember Mr. Sutherland asked to be
6 removed.

7 MR. SUTHERLAND: That's the one where I said it looked
8 like *Belcher*.

9 THE COURT: It did, and I said I was going to take
10 that out.

11 MS. CAMPBELL: We definitely removed it.

12 MR. SUTHERLAND: Oh, because I was looking while she
13 was putting it up there. Let me look at my notes.

14 THE COURT: I know what I said. They're going to get
15 it. I'll bring them back and do it.

16 MS. CAMPBELL: Thank you, sir.

17 THE COURT: Anything else?

18 MS. CAMPBELL: No, sir.

19 MR. SUTHERLAND: No, sir.

20 THE COURT: Give me a second. Everybody sit tight for
21 one second.

22 (A PAUSE.)

23 THE COURT: All right, the state has asked that I
24 charge this:

25 A specific intent to kill is not an element of

1 attempted murder, but there must be a general
2 intent to commit serious bodily injury. Intent
3 may be shown by acts and conduct of the defendant
4 and other circumstances from which you may
5 naturally and reasonably infer intent.

6 I am not going to charge, not the language:

7 Evidence of the character of the act, the
8 character of the instrument used, the manner in
9 which it was used, the purpose to be
10 accomplished, and the resulting wounds or
11 injuries they can consider in determining the
12 intent with which the act was committed.

13 I will leave that out. I will include:

14 Intent may also be inferred when it is
15 demonstrated that the defendant voluntarily and
16 willfully commits an act, the natural tendency of
17 which is to destroy another's life.

18 MS. CAMPBELL: Thank you.

19 THE COURT: That's what we discussed yesterday.

20 MR. SUTHERLAND: Yes, sir.

21 THE COURT: Bring them back in one second.

22 While you are doing that, look at the verdict forms.

23 They are as I said. It's just simply not guilty, guilty.

24 MR. SUTHERLAND: Yes, sir.

25 THE COURT: As to all five indictments. Make sure you

1 sign off on that.

2 (A PAUSE.)

3 MR. SUTHERLAND: Thank you, Your Honor.

4 (THE JURY ENTERS AT 11:34 AM.)

5 THE COURT: Mr. Foreman, ladies and gentlemen, on the
6 indictment dealing with attempted murder, I left out one
7 proposition of law that I had this morning, but I left it
8 back in my chambers.

9 Dealing with the offense of attempted murder, a
10 specific intent to kill is not an element of attempted
11 murder, but there must be a general intent to commit
12 serious bodily injury. A specific intent to kill is not an
13 element of attempted murder, but there must be a general
14 intent to commit serious bodily injury.

15 Intent means intending the result which actually
16 occurs and not accidentally or involuntarily. Intent may
17 be shown by acts and conduct of the defendant and other
18 circumstances from which you may naturally and reasonably
19 infer intent.

20 Intent may also be inferred when it is demonstrated
21 that the defendant voluntarily and willfully commits an
22 act, the natural tendency of which is to destroy another's
23 life. So, that's an element of attempted murder I've left
24 out of the charge.

25 FOREPERSON: Sir, will we have a copy of the laws as

1 written in the deliberation room? Cannot?

2 THE COURT: I'll discuss it with the lawyers. If I
3 can send it back there, I will.

4 FOREPERSON: Yes, sir.

5 THE COURT: They, they don't encourage that. When I
6 say they, that's higher powers.

7 FOREPERSON: Yes, sir.

8 THE COURT: But if you have any questions during the
9 deliberation about -- that I can recharge any of the law
10 you wish me to recharge.

11 FOREPERSON: Yes, sir.

12 THE COURT: Just ask and I will bring you right back
13 out here, and I'll read any of that that y'all want me to
14 reread.

15 FOREPERSON: Yes, sir.

16 THE COURT: Fair enough?

17 FOREPERSON: Fair.

18 THE COURT: All right. All right, still don't start
19 deliberating. I got to bring all the stuff in there.

20 (THE JURY EXITS AT 11:36 AM.)

21 THE COURT: Any objection to that addition to the
22 charge by the state?

23 MS. CAMPBELL: No, sir.

24 THE COURT: By the defendant?

25 MR. SUTHERLAND: No, sir.

1 THE COURT: Any additional requests by anybody?

2 MR. SUTHERLAND: No additional requests, Your Honor.

3 MS. CAMPBELL: None.

4 THE COURT: Thank you. All right, let the record
5 reflect both sides, state and defendant, have reviewed the
6 verdict form. All are, all are in agreement with the form
7 itself.

8 If y'all would please come up and make sure we have
9 all of the exhibits so I can put that on the record, and
10 then we will turn it to the -- turn them all in to the jury
11 so they can commence their deliberations. Who wants that
12 job? I want one of the lawyers to do it.

13 (A PAUSE.)

14 THE COURT: Let the record reflect that both defense
15 counsel and state have reviewed all the exhibits of the
16 court reporter. They are all in order. They've reviewed
17 the verdict form and have no opposition to it. Is that
18 correct for the state?

19 MS. SIMPSON: That's correct, Your Honor.

20 MR. SUTHERLAND: Yes, sir.

21 THE COURT: Defense?

22 All right, let's make sure the alternates are out of
23 the jury room, and please come get the exhibits.

24 (A PAUSE.)

25 THE COURT: All right, tell them they may start their

1 deliberations. Here's the verdict forms.

2 BAILIFF: Thank you, sir.

3 THE COURT: I note it is ---

4 BAILIFF: We have two alternates in the jury room.

5 THE COURT: I'll speak to them. 11:53.

6 (JURY DELIBERATIONS BEGIN AT 11:53 AM.)

7 THE COURT: Ms. Campbell, what's y'all's protocol up
8 here about alternates? How long do you let them sit?

9 MS. CAMPBELL: Tell me whatever you think is
10 appropriate, Judge. We're fine with it. Some judges let
11 them go right away, and some have them sit for an hour or
12 two just to make sure.

13 THE COURT: I'm going to let them eat their lunch, and
14 then I'll probably let them go after that.

15 MS. CAMPBELL: That's great.

16 THE COURT: All right, y'all stand at ease. I will be
17 in my chambers if you need me. Don't get too far away.

18 (OFF THE RECORD.)

19 THE COURT: All right, ladies and gentlemen, we have a
20 verdict. I obviously do not know what it is, don't know
21 what it is, but fair warning. If you cannot control
22 yourselves, whether it be not guilty or guilty, I'm going
23 to ask that you leave now. I will not tolerate any, any
24 outburst, emotional outburst. If you do, we'll have to
25 deal with it.

1 28, 2014.

2 As to the offense of burglary in the first degree, we,
3 the jury, find the defendant guilty. Signed by the foreman
4 and dated February 28, 2014.

5 As to the offense of attempted murder of Trenton
6 Scott, we, the jury, find the defendant guilty. We
7 unanimously agree. Signed by the foreperson and dated
8 February 28, 2014.

9 As to the offense of attempted murder of Joshua
10 Williams, we, the jury, find the defendant guilty. We
11 unanimously agree. Signed by the foreperson, dated
12 February 28, 2014.

13 As to the offense of murder, we, the jury, find the
14 defendant guilty. We unanimously agree. Signed by the
15 foreperson, dated February 28, 2014.

16 Mr. Foreman, is this your verdict and the verdict of
17 the entire jury?

18 FOREPERSON: Yes, ma'am.

19 CLERK OF COURT: Thank you.

20 THE COURT: Anything further from the jury before I
21 dismiss them by the state?

22 MS. WALKER: Nothing, Your Honor.

23 THE COURT: By the defendant?

24 MR. SUTHERLAND: Poll the jury, sir.

25 THE COURT: Ma'am.

1 CLERK OF COURT: Mr. Foreman and ladies and gentlemen
2 of the jury, I'm going to ask each of you two questions. I
3 need you to answer each of these questions.

4 Number 92, was this your verdict?

5 JUROR: Yes, ma'am.

6 CLERK OF COURT: Are they still your verdicts?

7 JUROR: Yes, ma'am.

8 CLERK OF COURT: Number 300, were these your verdicts?

9 JUROR: Yes, ma'am.

10 CLERK OF COURT: Are they still your verdicts?

11 JUROR: Yes, ma'am.

12 CLERK OF COURT: Number 33, were these your verdicts?

13 JUROR: Yes, ma'am.

14 CLERK OF COURT: Are they still your verdicts?

15 JUROR: Yes, ma'am.

16 CLERK OF COURT: Number 155, are these your verdicts?

17 JUROR: Yes, ma'am.

18 CLERK OF COURT: Are they still your verdicts?

19 JUROR: Yes, ma'am.

20 CLERK OF COURT: Number 38, were these your verdicts?

21 JUROR: Yes, ma'am.

22 CLERK OF COURT: Are they still your verdicts?

23 JUROR: Yes, ma'am.

24 CLERK OF COURT: Number 132, were these your verdicts?

25 JUROR: Yes, ma'am.

1 CLERK OF COURT: Are they still your verdicts?
2 JUROR: Yes, ma'am.
3 CLERK OF COURT: Number 114, are these your verdicts?
4 JUROR: Yes, ma'am.
5 CLERK OF COURT: Are they still your verdicts?
6 JUROR: Yes, ma'am.
7 CLERK OF COURT: Number 264, were these your verdicts?
8 JUROR: Yes, ma'am.
9 CLERK OF COURT: Are they still your verdicts?
10 JUROR: Yes, ma'am.
11 CLERK OF COURT: Number 164, were these your verdicts?
12 JUROR: Yes, ma'am.
13 CLERK OF COURT: Are they still your verdicts?
14 JUROR: Yes, ma'am.
15 CLERK OF COURT: Number 10, were these your verdicts?
16 JUROR: Yes, ma'am.
17 CLERK OF COURT: Are they still your verdicts?
18 JUROR: Yes, ma'am.
19 CLERK OF COURT: Number 122, were these your verdicts?
20 JUROR: Yes, ma'am.
21 CLERK OF COURT: Are they still your verdicts?
22 JUROR: Yes, ma'am.
23 CLERK OF COURT: Number 170, were these your verdicts?
24 JUROR: Yes, ma'am.
25 CLERK OF COURT: Are they still your verdicts?

1 JUROR: Yes, ma'am.

2 CLERK OF COURT: Jury's polled, Your Honor.

3 THE COURT: All right, the jury's been polled. All of
4 them answered the questions in the affirmative. Anything
5 else for the jury before I dismiss them?

6 MR. SUTHERLAND: No, sir.

7 THE COURT: Mr. Foreman, ladies and gentlemen of the
8 jury, I've said this every day, but I truly mean it. Y'all
9 have been a remarkable jury. This is not an easy case to
10 listen to; it's such a sad situation. Young kids, it's --
11 I don't know what's gotten into some of our people. It's
12 just terrible, and y'all have paid close attention. I
13 never looked over there where you weren't, every one of
14 you, just riveted on the testimony, and you've done your
15 job well. I appreciate it. I thank you on behalf of the
16 citizens of Richland judiciary and everyone involved. At
17 this time, I am going to release you.

18 Madame Clerk, they'll receive a check in the mail.
19 You have a check for them?

20 CLERK OF COURT: I have their checks.

21 THE COURT: Huge checks. Anybody need a work excuse,
22 she'll be glad to handle that as well. So, if you'll
23 return back to your jury room, she'll be glad to disperse
24 the checks. And what we have left to do is obviously I
25 have to impose sentencing on him. That will take us about

1 thirty minutes to get all the paperwork up. You're welcome
2 to come back in and sit, or you certainly are free to go,
3 but I thank you on behalf of everyone. You've been a
4 wonderful, attentive jury, and nobody could ask for
5 anything more than y'all have given us. Thank you.

6 Everybody else remain seated, please.

7 (THE JURY EXITS AT 1:24 PM.)

8 THE COURT: Mr. Sutherland, I'm going to be back up
9 here not next week but the week after. If you wish to have
10 ten days to file your posttrial motions, I'll be more than
11 happy to give you that time.

12 MR. SUTHERLAND: Yes, sir, and I'll, I'll, I'll
13 prepare it.

14 THE COURT: So, I'll be back a week from Monday, and
15 we can also at that time sentence Ms. Shurling's client
16 that same week.

17 Y'all have your sentence sheets prepared, or do we
18 need...

19 MS. WALKER: We need a few minutes to get those
20 together.

21 THE COURT: All right. I'm going to go back in
22 chambers. For those in the audience that are required,
23 once that is done, then I will sentence the defendant, and
24 then that will conclude the proceedings.

25 So, as soon as y'all get those ready, ma'am, just let

1 me know so we won't have to dilly dally.

2 (OFF THE RECORD.)

3 THE COURT: All right, Mr. Sutherland, anything you
4 want to tell me before I impose sentence on your client?

5 MR. SUTHERLAND: Yes, sir. If it pleases the court?

6 As I mentioned to the jury in -- I -- it has been a
7 privilege for me to represent Maurice and to get to know
8 his family. He was seventeen years old at the time of this
9 incident. I met him shortly thereafter, within maybe six,
10 eight weeks.

11 He has been working with me, and he's done a lot.
12 He's a lot better at reading and everything since, since I
13 first met him. He's been pretty helpful in the
14 preparation. As Your Honor noted, I mean, he was able,
15 able to testify, and I wasn't too worried about it.

16 He has had an issue from the very beginning about his
17 family thinking that he shot or that he had killed somebody
18 and, you know, that, that remains a concern. I've
19 explained to his family about accomplice liability and
20 everything to that effect.

21 I do not believe that -- I do not believe that he shot
22 Brandon Jones, our view of the evidence. I understand
23 that's the state's position.

24 THE COURT: Well, it's not for me to decide, not for
25 you to decide ---

1 MR. SUTHERLAND: Yes.

2 THE COURT: --- not for the state.

3 MR. SUTHERLAND: Yes, sir.

4 THE COURT: The jury decided that ---

5 MR. SUTHERLAND: And ultimately ---

6 THE COURT: --- at least he participated in it.

7 MR. SUTHERLAND: Yes, sir. Ultimately under
8 accomplice liability that's, that's not really an issue as
9 to guilt or innocence.

10 I've ask the court to consider is his age ---

11 MR. SUTHERLAND: He's eighteen.

12 MR. SUTHERLAND: --- at the time of the offense.

13 THE COURT: Seventeen at the time?

14 MR. SUTHERLAND: Yes, sir. I'd like to say the
15 relative culpability. There's no real way to know what,
16 what the jury thought about who shot whom, but, you know,
17 that's my belief. It's been my belief all along, and it
18 will remain my belief that he did not shoot either of those
19 young men, sir.

20 I, I understand the tragedy that's befallen everybody
21 connected to Brandon and Trent and Troy, and it's a, it's a
22 terrible situation, terrible circumstance and I'm sorry to
23 them.

24 I just hope that the court might consider a sentence
25 near the minimum sentence, and it carries day for day.

1 I've told him if he was to get thirty years day for day,
2 he'd be five years older than I am when he comes out, and I
3 do believe it would be appropriate. That -- that's my view
4 of his role, sir, and I'd ask the court consider the
5 minimum sentence. Thank you.

6 THE COURT: Thank you.

7 Anything you want to tell me, sir?

8 DEFENDANT: Well, I just -- well, about, like?

9 MR. SUTHERLAND: Do you, do you want to say anything?
10 Don't ---

11 THE COURT: You don't have to say a thing.

12 DEFENDANT: I just, you know, I would like to
13 apologize to the family for, you know, what happened.

14 MR. SUTHERLAND: Don't go further.

15 Thank you, sir.

16 THE COURT: Yes, ma'am, Ms. Simpson.

17 MS. SIMPSON: Thank you. May it please the court?

18 First I'll start with the defendant's prior record. Even
19 though he is a juvenile three months prior to this
20 incident, he was actually convicted of grand larceny as
21 well as burglary third degree.

22 Your Honor, with respect to the facts of this case,
23 you've sat here throughout the trial. This truly is a
24 tragic and heinous incident. All, all involved are youths
25 and very young. However, with respect to this and what the

1 evidence shows, it is the state's position, as I stated and
2 the jury has spoken, that the defendant had a gun. He used
3 that gun in shooting after the armed robbery that they went
4 there to do for studio equipment, which that in and of
5 itself, I think, speaks volumes.

6 When that door was locked and that access was gone,
7 this defendant or co-defendant, however it's viewed -- as I
8 said, the state's position is that Maurice Roberts is the
9 shooter. Had the opportunity and the choice to walk away.
10 He already pistol whipped. The victim was down, Brandon
11 Jones pleading for his life. He was shot essentially in
12 the back and arms, all defensive wounds. Helpless,
13 unarmed, and there was absolutely no reason that he had to
14 die that day.

15 As far as the Scotts, their home was invaded, a home
16 that they had opened to really those in the community, in
17 their neighborhood and allowed in their home as a safe
18 place. I don't know that they can ever get that sense of
19 security or trust which -- to help other youths. I believe
20 that's been taken from them, and it's just something that
21 you can't get back. And that's above the fact that their
22 lives or their family's lives were at risk the day that
23 they went in there armed with a gun, with a plan, and the
24 plan was premeditated, whether or not the murder was
25 premeditated.

1 So, Your Honor, we would be asking for an appropriate
2 sentence. We're actually in agreement with what the
3 victims will be asking for in this case. And some of them
4 would like to speak, Your Honor. Specifically, Gwendolyn
5 Sugar Davis would like to speak on behalf of Trenton and
6 Troy. That is their mother. Nicole Simmons will be
7 speaking on behalf of the mother -- or will be speaking on
8 behalf of Joshua Williams. That is his mother, as well as
9 Lavon Scott, the mother of the deceased victim in this
10 case, Brandon Jones.

11 THE COURT: Thank you.

12 MS. DAVIS: On behalf of Troy and Trenton Scott ---

13 THE COURT: Your name, please, ma'am? I'm sorry, your
14 name?

15 MS. DAVIS: My name is Gwendolyn Sugar Davis.

16 THE COURT: Ms. Davis.

17 MS. DAVIS: On behalf of Troy and Trenton, my other
18 boys, and Brandon Scott, we are saddened. We've had a
19 loss. If I would have know that they wanted equipment that
20 bad, I would have bought it for them. Caused my husband a
21 whole, whole lot of pain. They tore up and destroyed our
22 home for no reason at all. It didn't have to be that way.
23 If you would have know anything about us, we would have
24 given it to you.

25 THE COURT: Well, I feel like I've learned a lot about

1 you, and you certainly are a very caring, giving, and
2 benevolent person. I believe you; I believe you would have
3 absolutely given it to him.

4 MS. DAVIS: And I don't know whether my husband will
5 ever recover from this. Von and Mr. Scott trusted us with
6 their son, and you all betrayed their trust. We, we had a
7 great loss. It was a great, big misunderstanding. Brandon
8 wasn't a child that just came off the street. Brandon was
9 raised as Troy and Trenton cousin, so he wasn't homeless.
10 He wasn't somebody that just came by. Brandon was a part
11 of our family.

12 We didn't just take kids off the street. We have
13 judge, we have lawyer kids as well. Our job was to let the
14 parents know where their child was, and we would
15 temporarily keep them, keep the children off the street
16 until they get theyselves together.

17 But we've had a real, real bad loss. Trent has a scar
18 for life, and now we and other children that we maybe could
19 help, because of this, we are so much more cautious. Thank
20 you very much.

21 THE COURT: Thank you, ma'am.

22 MS. DAVIS: For everyone, talking about everyone.

23 MS. SIMMONS: My name is Nicole Simmons; I am the
24 mother of Joshua Williams. First and foremost, I want to
25 apologize, Your Honor, for my son outburst the other day.

1 He was not being -- trying to be rude. He was just angry.

2 THE COURT: I accept your apology, and I understand.

3 MS. SIMMONS: He's just very hurt because with me, you
4 know, me raising him by myself as a single mother before I
5 got married, I always told my children -- because he has
6 four sisters up under him -- you know, be careful of your
7 surroundings. Be careful who you call your friends because
8 everybody is not their friend.

9 And he have learned since this has happened to him
10 that he cannot trust anyone. He, he cannot. He has lost
11 jobs because of this. He just has just lost a lot, but
12 right now since the support of my mom, the support of his
13 stepfather, and the support of his sisters, you know, you
14 have to be very supportive of him, and he is continuing
15 with his music. He's continuing to go to church. He doing
16 what he needs to do to do what he need to do.

17 As a family, since, since he apologized, I forgive
18 him, but I'll tell you the reason why I forgive him.
19 Because in order for me and my family to get our blessings
20 that are on the way, I have to forgive, but I can never
21 forget what happened because this is a tragedy that -- it
22 shouldn't have happened.

23 Myself, if I knew the situation, I'm just like Ms.
24 Davis. I would have bought it for them; my son would have
25 bought it for them. But it didn't have to happen this way.

1 Thank you.

2 MS. SCOTT: Good afternoon. I'm Lavon Scott. Sorry.
3 I'm Lavon Scott. I'm Brandon Jones's mother.

4 I stand before you brokenhearted. Brandon was my
5 firstborn, my only son. I have to decide or we have to
6 decide how we're going to explain to his one-year-old
7 daughter why she can never touch her daddy. She knows his
8 pictures. She can see video tape of him playing basketball
9 or hear his music, but her daddy will never be tangible to
10 her because of decisions that were made. That they were
11 totally necessary.

12 I, too, taught him to trust who he was around, and so
13 when my seventy-three-year-old daddy decided in the cold to
14 drive Brandon from Fairfield County to who we know as
15 Sugar's house, a safe place to be, so that he could make
16 music like he did pretty much on a weekly basis -- Brandon
17 was grown. He was twenty-two years old, but I knew where
18 he was because my dad would let me know. That's how we
19 communicate. I always pray for his protection over my
20 child, and I knew where he was going was a safe place to
21 be.

22 So, for this to take place -- I kind of knew they
23 didn't know who Brandon was because he was charming. He
24 was fun. He could make you mad and laugh in the same
25 breath. He was the most handsome, brown skinned, blue-eyed

1 young man you could ever meet.

2 I am heartbroken. The structure of my family has been
3 forever changed because of decisions young men, who I know
4 if they knew Brandon wouldn't have made this decision. He
5 could have talked them out of it. He would. So, I ask
6 that all those involved are punished to the fullest extent
7 of the law.

8 I thank the Richland County Sheriff's Department for
9 their diligent work. I thank the solicitors and their
10 assistance, and I thank the jury and you, sir, for your
11 time. Thank you.

12 MS. SIMPSON: Your Honor, that will be all from the
13 state.

14 THE COURT: Anything else?

15 MR. SUTHERLAND: Nothing. Nothing further, sir.

16 THE COURT: To everyone in the courtroom, obviously
17 imposing sentence on an eighteen-year-old man,
18 eighteen-year-old boy, young man, is obviously a
19 responsibility that my job gives me that I do not relish at
20 all.

21 Mr. Roberts, I've been doing this a long time. I
22 practiced law for thirty years. I represented six
23 defendants for death penalty cases, along with literally
24 hundreds of other defendants. As a sitting judge, I've
25 tried I don't know how many, too many murders, too many

1 murders, too many, and this is about as senseless as one
2 gets.

3 To plan an escapade to steal recording equipment from
4 a family that would have given it to you, to go over and
5 entice them out of the house, to go in there with a pistol
6 -- and so the robbery may have gone South. It may have
7 gone South, and maybe things would have been a lot
8 different, but no.

9 Did y'all get into a fist fight like when we were
10 growing up? We settled our differences. When you get a
11 man down on the ground who's begging for his life -- don't
12 shoot me, don't shoot me, don't shoot me -- and you shoot
13 him once, twice, three times, four times, five times, it's
14 nothing more than an execution. I just -- it's beyond me
15 how things like this happen and why they happen and why
16 should they happen over something that's senseless as
17 trying to steal some equipment you can go down to Best Buy
18 and buy for probably next to nothing. We're thankful that
19 we don't have two other murder cases against you. Thankful
20 those young men survived their gunshot wounds.

21 So, we're trying to pass upon you. It's tough to send
22 a young man eighteen years of age away for a long time, but
23 it's even tougher to allow someone with your lack of
24 responsibility, your lack of any kind of respect for human
25 life to remain associated with others in society who want

1 to live their lives by the law. I have to protect them
2 from people like you. So, I'm going to segregate you from
3 society until you get old enough when hopefully you'll
4 become a responsible citizen.

5 *SENTENCE OF THE COURT*

6 THE COURT: As to the offense of murder, the sentence
7 of this court is you be committed to the state Department
8 of Corrections for a period of forty-five years. As to the
9 two attempted murder charges, the sentence of the court is
10 you be committed to the state Department of Corrections for
11 a period of thirty years. As to the burglary first, it's
12 the sentence of the court you be committed to the state
13 Department of Corrections for a period of forty-five years.
14 As to the attempted robbery, it's the sentence of the court
15 you be sentenced to the Department of Corrections for a
16 period of twenty years. All the sentences will run
17 concurrent to your forty-five year murder sentence that you
18 will do day for day. Good luck to you.

19 --- END OF TRANSCRIPT OF RECORD ---

was free to leave is undermined by the testimony and report of his direct superior as well as by the testimony of Roberts himself.

B. Miranda

Cpt. McDonald claims to have mirandized Roberts out of “an abundance of caution.” Roberts testimony indicates that he was not mirandized until after his statement was typed up. McDonald’s version of events has already been flatly contradicted by Mr. Roberts and Major Smith with respect to custody. Here it is contradicted by Mr. Roberts. Roberts credibility was not impeached in pretrial. McDonald’s credibility was impeached; leaving Roberts as the more credible witness.

C. Seibert Violation

“In Seibert, the Court dealt with the police practice of questioning a suspect until incriminating information is elicited, then administering Miranda warnings. Following the warnings, the suspect is again questioned and the incriminating information re-elicited. The post-warning statement is then sought to be admitted. The factors to be considered in determining whether a constitutional violation occurred in this setting, according to the Seibert plurality opinion, are:

- 1) the completeness and detail of the question and answers in the first round of interrogation;
- 2) the timing and setting of the first questioning and the second;
- 3) the continuity of police personnel; and
- 4) the degree to which the interrogator's questions treated the second round as continuous with the first.” *State v. Navy, 386 S.C. 294 at 302 (2010)*.

1. Completeness and detail

The completeness and detail of the questions and answers in the first round of interrogation are identical to the post Miranda questions and answers. After Miranda, Cpt. McDonald read the statement to Mr. Roberts that he had typed in the unwarned questioning period, and had him affirm the unwarned questions with his signature.

2. Timing and setting of the first and second questioning

The unwarned questioning occurred in a police car and at RCSD headquarters in an office. Following Miranda in the RCSD office, the statement that McDonald had typed during the office portion of the questioning was simply read to Roberts. Outside of a 15-20 minute ride to RCSD Headquarters, the questioning was continuous.

3. Continuity of personnel

The main interrogator was McDonald. The “bad cop” was Investigator Boland or “Blue

Eyes" as Roberts indicated in his testimony. There was a third investigator according to Roberts, and McDonald, Investigator Chris Lindler, who was present during questioning but was not called by the State during the hearing.

4. Degree to which the second interrogation was treated as continuous with the first

The second round was a reading of the first round's interrogation immediately following Miranda followed by a request for a signature.

D. Threats/Promise of Leniency or Hope of reward

McDonald testified before the jury that he told Roberts "I am not going to hold a gun to your head." Any reasonable, similarly situated citizen would perceive such a statement as a threat from an armed government agent seeking a signature on a "confession."

Further, Mr. Roberts testified that he was told "you have to help us before we help you." Roberts further testified that he was told that "the big charges will be dropped down." Further, water was withheld from Mr. Roberts during his interrogation. A statement induced by a promise of leniency, where it is so connected with the inducement as to be a consequence of that inducement is involuntary. *State v. Peake, 291 S.C. 138 at 139 (1987)*.

II. Identification

The identification procedure utilized by Investigators was patently suggestive. Two of three non-codefendant identification witnesses testified that they saw a suspect briefly and then immediately launched into a physical struggle in which their focus was on getting two suspects out of the house. Notably, Cari Pearson, who was not involved in the struggle, identified an innocent man as present and participating in the incident (as did Troy Scott who did participate in the struggle).

With respect to the procedure, first, a lineup with a person whom the witnesses had known for 1-2 years was shown to all witnesses. The suspect identified by police as being a participant was in picture number 6, or the bottom right photo. Then a lineup including a suspect whom the witnesses had seen several times at the store was shown at a later date. That suspect, who was identified in the lineup, was picture number 6. A lineup was also shown of a suspect who was not even present, and two of the witnesses identified the innocent suspect as being present in the house. This suspect was picture number 6. Finally, a lineup including Roberts was shown at a later date. Roberts was picture number 6 and was identified as being present and participating in the incident.

It is noteworthy that Troy Scott testified that he "never forgets a face" and denied identifying Linard Gaston (the innocent suspect) as being present. This, however, was impeached by Investigator Faust's reluctant testimony that Scott had indeed, in a written statement identified Gaston as being present and participating. While this testimony was difficult to elicit from Faust, he did ultimately admit that to be the case, blaming the influence of others on the misidentification.

Ironically Faust's testimony made the Defendant's point that the identifications had been influenced by others; only the Defense points to the influence of the "picture 6" procedure rather than an associate of Scott saying the person that was there may have been Linard Gaston.

Under the totality of the circumstances, the lineups were unduly suggestive. Further, that witnesses also chose a suspect who was innocent in the lineups is demonstrative of the unreliability of the in court identifications. *An in-court identification of an accused is inadmissible if a suggestive out-of-court identification procedure created a very substantial likelihood of irreparable misidentification.* State v. Traylor, 360 S.C. 74 at 81 (2004).

III. Lineups with Offender ID Number

Over Defense objection and suggestion of a solution of redacting the offensive material, the State introduced lineups of Roberts with the Offender Identification Numbers utilized by the jail to keep track of inmates underneath the photos. While the numbers appeared under all photos in the array the Defendant, through his counsel, does submit that the lineups as entered into evidence suggested that Roberts had a prior criminal record. The State claimed that redaction of the Offender ID numbers would confuse the jury, where the Defense believed that, subject to previous objections, there was no demonstrable need to introduce the photograph with Offender IDs attached; that simply introducing them circled and initialed were sufficient to meet the State's purposes. The Offender IDs both suggest a prior criminal record and draw attention to the origin of the photo. *"The introduction of a "mug-shot" of a defendant is reversible error unless: (1) the state has a demonstrable need to introduce the photograph, (2) the photograph shown to the jury does not suggest the defendant has a criminal record, and (3) the photograph is not introduced in such a way as to draw attention to its origin or implication."* State v. Tate, 288 S.C. 104 (1986).

III. Testimony revealing the Defendant was incarcerated at the time of trial

Over Defense objection, the State introduced testimony that Roberts was incarcerated pretrial. The criminal process presumes that a citizen accused of a crime is innocent. Testimony that the citizen is incarcerated and has been for 13 months for the offense being tried undermines that presumption of innocence. See Missouri v. Deck 125 S.Ct. 2007 at 2013 (The issue in Deck was shackling a defendant in front of a jury but the principle at issue is identical). That Roberts was incarcerated and had been so for 13 months was not relevant to the proceedings; ad arguendo if it were, the prejudicial effect of undermining the presumption of innocence far outweighed any claim the State might make towards relevance where the incarceration was the result of an arrest for the offense being tried, rather than the locus of a subsequent offense for which a citizen was on trial.

IV. Gruesome/Cumulative Photographs

Over Defense objections and a proposed solution to introduce a single, least offensive photograph for perspective of the crime scene, the State introduced numerous graphic crime scene photographs depicting a large amount of blood and body matter. In addition to being cumulative, the Defense believes that the photographs were highly prejudicial and that their probative value was minimal in light of the proposed solution submitted by counsel at the time. In fact, counsel raised no objection to the particular photograph which adequately showed a perspective of the crime scene, while proposing that the others were cumulative and graphic.

The Defendant believes that the foregoing visual evidence should have been excluded pursuant to Rules 401 and 403, SCRE, the due process clause of the Fourteenth Amendment to the United States Constitution, and Article 1, Section 3 of the Constitution of South Carolina.

In State v. Edwards, 194 S.C. 410, 10 S.E.2d 587 (1940), the Supreme Court established the rule regarding gruesome photographs and stated "photographs which are calculated to arouse the sympathies or prejudices of the jury are properly excluded if they are entirely irrelevant or not substantially necessary to show material facts or conditions."

In State v. Waitus, 224 S.C. 12, 77 S.E.2d 256 (1953), the Court reversed a the conviction and death sentence, in part due to the erroneous admission of four pictures, citing Edwards as the basis for the assignment of error. The Waitus Court stated:

"Error is assigned in the admission of four pictures of deceased taken in the boiler room of the parish house before the body was removed. It is claimed by the State that these pictures were relevant as showing the marks, bruises and abrasions made as a result of the assault, the condition of the clothes of deceased, and that her rings had been removed and placed on the index finger. There was no dispute as to these facts. All of them were fully established both by uncontradicted medical and lay testimony. **These pictures were calculated to inflame and arouse the passions of the jury and their introduction was wholly unnecessary to establish the facts claimed.** They should have been excluded. The rule governing this question is discussed in State v. Edwards, 194 S.C. 410, 10 S.E.2d 587." (Emphasis added).

The analysis in the Waitus opinion essentially mirrors the current provisions of Rules 401 and 403, SCRE. In State v. Middleton, 288 S.C. 21, 339 S.E.2d 692 (1986), the Supreme Court addressed the admission of color autopsy photographs. Citing both Waitus and Edwards, the Middleton Court explained "the testimony of the forensic pathologist negated any arguable evidentiary value of the photographs. The prejudice created by the photographs clearly outweighed any evidentiary value."

Later in 1986, the Supreme Court addressed the admission of autopsy photographs in State v. Kornahrens, 290 S.C. 281, 350 S.E.2d 180 (1986). The Court found the admission of color photographs proper. However, the photos were only admitted in the sentencing phase of a death penalty case, not the guilt phase. Once again the Court cited Waitus, stating "[i]n the guilt phase of a trial, photographs of the murder victims should be excluded where the facts they are intended to

show have been fully established by competent testimony.” The Kornahrens Court ruled that the “trial judge is still required to balance the prejudicial effect of the photographs against their probative value. However, in the sentencing phase, the scope of the probative value is much broader.”

State v. Franklin, 318 S.C. 47, 456 S.E.2d 357 (1995), also a death penalty case, explained the unique nature of admission of gruesome photographs in the sentencing phase of a death penalty case with specific regard to the circumstances of aggravation. The Court stated:

“The jury could not have understood from the pathologist’s testimony the extent of the physical torture Martin suffered. The issue of aggravating circumstances remained viable throughout the sentencing phase of the trial. We find the probative value of the slides in this case clearly outweighed any prejudicial effect they may have had on the jury.”

State v. Tucker, 324 S.C. 155, 478 S.E.2d 260 (1996), addressed the admission of gruesome photographs on both the guilt and penalty phase of the trial. The Court found no error in the admission during the guilty phase, but did make note of the details of the only photograph admitted:

“[O]nly one, a black and white photograph, depicted Victim’s body as it was left at the house. It was admitted to show the placement of the victim, the crime scene as a whole, and to contradict Appellant’s assertion that the killing was accidental or the result of a faulty weapon. It was taken from the farthest point in the room. (Emphasis added) The rest of the photographs showed different rooms with barely distinguishable blood splatterings on the carpet (admitted to corroborate testimony that Appellant dragged Victim through the house), Victim’s keys by the back door (admitted to show where Victim left them when she went out the back door), bullet casings (admitted to show where Appellant was in Victim’s bedroom when he shot her), and Victim’s hand (admitted to show she was being taped up).”

The analysis used by the Tucker Court makes very clear the circumstances under which crime scene photographs should be admitted in the guilt phase of a trial. The practical effect of the State’s introduction of graphic and cumulative crime scene photographs was to inflame the passions of the jury rather than to provide the perspective the State sought which could have been effectuated through the Defense’s proposed solution of introducing a single photograph which emphasized perspective rather than voluminous blood and body matter.

V. Brevity of deliberations

The Defendant does submit that the brevity of deliberations, one hour and twenty minutes (approximately) reflects the prejudice inherent to the introduction of the foregoing evidence. If the jury had spent thirty seconds reviewing each of the State’s exhibits, the deliberations would have lasted longer.

VI. Conclusion

For the foregoing reasons, the Defendant, through his Counsel, does respectfully request a new trial in the above captioned case.

Respectfully submitted,

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March 7, 2014

1 I N D E X O F W I T N E S S E S

2
3
4 (WHEREUPON, no witnesses were called
5 during these proceedings.)
6
7

8
9 E X H I B I T S

10
11
12 COURT EXHIBITS

13 <u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
14 1	Motions	4	

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25

1 THE COURT: Certainly. Absolutely.

2 (WHEREUPON, Court's Exhibit No. 1 was
3 marked for identification only.)

4 MR. SUTHERLAND: Briefly, Your Honor, with
5 respect to the statements, we actually went over
6 that a good bit in pretrial. I think that was only
7 supplemented to the extent of a little different
8 version of Major Smith about the custodial part of
9 it.

10 And, also, Captain McDonald did add that he
11 had stated to my client: I'm not going to put a
12 gun to your head.

13 So that added the additional element of threat
14 versus promise on that.

15 And all of that is enumerated in detail in the
16 motion.

17 The second issue with the identification, it
18 is the same issue that we spoke down in pretrial
19 that developed during trial when Carrie Pearson got
20 up and testified that she actually picked Gaston
21 out of the photo line-up, and that was Picture
22 Number 6, which was the principal concern that I
23 had with respect to the State showing people that
24 have been known for one or two years. The next
25 line-up is somebody that had been seen several

1 times at the store, corner store, an innocent guy
2 getting picked. And then my client being last in
3 the line-up and the same rotation as all the other
4 pics.

5 With respect to the Offender Identification
6 Numbers, that issue was also raised. And just my
7 belief and my view on that is that there was a
8 solution that was available as far as redaction.

9 THE COURT: Well, you called them mugshots,
10 but --

11 MR. SUTHERLAND: Yes, sir.

12 THE COURT: But I certainly didn't deem them
13 to be mugshots. Not from the mugshots I've seen in
14 40 years.

15 MR. SUTHERLAND: Oh, yes, sir, not with the
16 sign or anything.

17 THE COURT: Right.

18 MR. SUTHERLAND: My concern centered around
19 the Offender Identification Number. And I believe
20 that I said during the trial that everybody since
21 they have been watching Bugs Bunny knows that
22 people have a number in jail, or something to that
23 effect. It just draws attention --

24 THE COURT: Your motion that you filed
25 post-trial talked about the mugshots and cases

1 dealing with mugshots, but I certainly didn't deem
2 them to be a mugshot photo, as we discussed a
3 number of times, for ID. The number was simply an
4 ID number that was consistent with everyone -- not
5 the same number, but their number.

6 MR. SUTHERLAND: Yes, sir. And just for the
7 record, that is what I took from everything that
8 occurred throughout the course of the trial.

9 The testimony with respect to my client being
10 incarcerated, I did outline -- I think it
11 undermines the presumption of innocence for the
12 jury to view a person as being in jail for
13 something which they have not been convicted.

14 I believe I submitted Missouri versus Deck,
15 which was a shackling case, but the principle was
16 the same.

17 THE COURT: And I gave a curative instruction
18 on it, didn't I? Or did I?

19 MR. SUTHERLAND: I do not believe so, Your
20 Honor. I believe the curative instruction was with
21 respect to the marijuana, which actually wasn't
22 mentioned in the memorandum, but --

23 THE COURT: And I told them that we're not
24 here to try him on that and they were to disregard
25 it. I think that is what I said.

1 MR. SUTHERLAND: Yes, sir.

2 THE COURT: That is what you are referring to
3 about his prior incarceration?

4 MR. SUTHERLAND: Yes, sir. And just that --
5 well, the prior incarceration is sort of with
6 respect to the identification numbers on the
7 photos.

8 As far as his being in pretrial incarceration,
9 my argument is for the jury to know that he's been
10 incarcerated for 13 months on a charge for which he
11 is on trial, that it would be prejudicial to him.

12 THE COURT: Did that come out?

13 MR. SUTHERLAND: It did at the point -- it was
14 Demetrius James' testimony where he had testified
15 that my client was threatening him in the jail, or
16 something to that effect, or that he had talked to
17 him on the way from jail or in a holding cell at
18 jail.

19 MS. CAMPBELL: I don't think the word *jail* was
20 ever mentioned. I think that he said that they
21 were transported together and that was when he
22 threatened him. That was the extent of that
23 testimony, as I recall it, Your Honor.

24 In addition to that, for all the jury knows,
25 you know, I mean, the Defendant had been taken into

1 custody upon the call of his case. There was no
2 mention or no alluding to the fact he had been
3 incarcerated for 13 months, that I recall.

4 THE COURT: You can make your argument. I'm
5 not cutting you off. I have the same recollection
6 as she has.

7 MR. SUTHERLAND: Yes, sir. And that is just
8 my view on the jury, on any jury knowing that my
9 client is incarcerated when they are making their
10 determination.

11 I had to get a shackling case, you know, from
12 the Supreme Court to support that position. I
13 believe the principle is the same, and that is what
14 I put on the record, sir.

15 THE COURT: Thank you.

16 MR. SUTHERLAND: With respect to the -- I term
17 them as gruesome photographs, and that is some of,
18 you know, the language in some of the cases that I
19 point out.

20 And I had objected to all but one in a couple
21 of series of photographs. My position was that
22 this particular photograph showed all the
23 perspective that they need, and that the cumulative
24 and sort of up-close of the body matter -- and I'm
25 sorry that the family is in the courtroom to hear

1 that. That is just for the purposes of the
2 argument. I mean, it is an awful thing that I'm
3 talking about here.

4 THE COURT: Sure.

5 MR. SUTHERLAND: But the amount of blood and
6 the body matter that was visible in those pictures
7 and the cumulative nature of those pictures, it is
8 my belief that they were inflammatory.

9 There is a number of death penalty cases that
10 I did cite some of those inflammatory pictures in
11 the penalty phase to show the nature of the
12 brutality that was involved in a death penalty case
13 I believe it was said was okay by a number of
14 cases. At the same time during the guilt phase, I
15 just believe that the probative value versus the
16 prejudicial effect where there is the opportunity
17 for one prospective shot rather than the
18 accumulation of it. Ultimately, I believe that
19 that was prejudicial, their introduction of those
20 photos over objection, sir.

21 And, lastly, there was a number of witnesses,
22 over 200 exhibits. And, you know, I respect every
23 jury and every determination that they make. I
24 believe my mention was if they had spent 30 seconds
25 looking at each exhibit, that the deliberations

1 would have lasted longer.

2 And that sort of feeds into some of the other
3 issues that, you know, perhaps their passions were
4 inflamed. I just believe that for the amount of
5 evidence and the length of the trial and the number
6 of physical exhibits, that the deliberations were
7 brief.

8 I do understand that if they were to find all
9 the State's witnesses credible and everything, that
10 that determination might have been made, that the
11 evidence was overwhelming. I just happened to
12 disagree with the determinations of credibility and
13 everything else.

14 THE COURT: Thank you.

15 MR. SUTHERLAND: Yes, sir.

16 THE COURT: Ms. Campbell, do you want to take
17 them in the manner in which he argued them, Miranda
18 first?

19 MS. CAMPBELL: Your Honor, I believe that you
20 made an initial finding, having listened to all the
21 testimony as far as the Miranda issue, and at that
22 time you made a finding that he was voluntarily
23 cooperative.

24 There were two different scenarios. Either
25 you believed -- Sergeant -- Lieutenant -- Captain

1 McDonald, I'm sorry -- or the Defendant testified.

2 The State's position was that now all the
3 credible evidence indicated that he was, Number
4 One, even though he was not technically in custody,
5 the police went through and jumped through all the
6 hoops they should and advised him of his rights
7 prior to any questioning, that he went through
8 those, even explained.

9 And the Defense constantly refers to Captain
10 McDonald talking about putting a gun to his head.
11 He was using that to illustrate a manner as far as
12 explaining what coercion might mean. It was not
13 any testimony that there was ever a gun put to his
14 head.

15 There was also no testimony that they tried to
16 entice him into talking first, but then later went
17 back and Mirandized him, unless you would find the
18 Defendant's testimony credible, which was
19 contradicted by the State's credible evidence, Your
20 Honor.

21 I believe you have heard everything as far as
22 any possible violations as far as the statement
23 went. And there was no threat or promise of
24 leniency or hope of reward that was credible, Your
25 Honor. And we would just ask that you stand by

1 your previous ruling on that.

2 As far as the identification, Your Honor, we
3 did have hearings on those as well. We would just
4 ask -- and I would just mention that he does
5 misquote in his memorandum a little bit. Carrie
6 Pearson I believe said that that looked like the
7 person. She didn't say she identified him.

8 In addition to that, specifically, the other
9 person, I believe it was Troy Scott, who looked at
10 this line-up, said specifically: That was not the
11 person that was there that day.

12 And, in addition to that, any possible
13 question as to identification, he fully impeached
14 Sergeant Faust as to that issue as far as that.

15 As far as the line-up of the Offender ID, Your
16 Honor, I would just note, this is not, as you have
17 already said, a picture with a number on it where
18 it says, you know, Alvin S. Glenn Detention Center
19 on the thing and then the height thing is in the
20 background. These photographs look similar to
21 driver's license photographs or photographs
22 taken --

23 THE COURT: They weren't in a jail uniform.
24 They didn't have --

25 MS. CAMPBELL: Nothing like that.

1 THE COURT: Nothing that indicated it was a
2 mugshot, jail -- taken at the jail. It was just
3 simply a benign photograph with an ID number
4 underneath it. It had no indication that it was a
5 mugshot whatsoever, in my opinion.

6 MS. CAMPBELL: Yes, sir. Then the testimony
7 of being incarcerated at the time of trial, again,
8 he only mentions that they were transported
9 together. It was never taken any further than
10 that. And a curative instruction was asked on
11 behalf of the Defense.

12 As far as the photographs, Your Honor, I just
13 want to address that. Every case which he cites in
14 those cite even an autopsy photograph of the actual
15 victim or a photograph of the victim at the scene.
16 There are absolutely no -- we didn't offer any
17 autopsy photographs in this case.

18 THE COURT: All you used were diagrams.

19 MS. CAMPBELL: We used diagrams, Your Honor.
20 And the only photographs that we did just show
21 generally the scene as it was once the victim's
22 body and all the victims had been removed from the
23 scene. So there are no photographs of anyone
24 lying there bleeding, or anything of that nature,
25 which all the cases he cites specifically talk

1 about either the victim seen at the scene, the
2 victim's body, or in the autopsy picture.

3 Specifically, Your Honor, to make sure we
4 didn't cross the line, we didn't introduce the --
5 there were hundreds of autopsy pictures in this
6 case. We did not go there because, for purposes of
7 this case, we didn't feel like that those would be
8 more probative than prejudicial, and we did limit
9 our introduction of the crime scene generally
10 because it became apparent who was where in the
11 driveway was at issue in this case insofar as whose
12 participation was what.

13 Ultimately, of course, with the hand of one,
14 hand of all, that didn't matter; however, that
15 could have been an important factor as far as
16 corroborating and the witnesses, specifically the
17 victim, testimony in this case, Your Honor. And
18 under State v. Edwards and Franklin and
19 Panerri(phonetic) and all the recent cases, Your
20 Honor, I believe we are allowed to introduce those
21 pictures of that.

22 In addition, Your Honor, we didn't put in any
23 just specific, you know, bloody, just photograph
24 itself. It was all in context. If any blood was
25 in any of them, it was in context with the scene

1 showing where like the fight had happened inside
2 and out, and things of that nature. We did limit
3 it to that.

4 Finally. Your Honor, as far as the length
5 of --

6 THE COURT: The length of deliberations?

7 MS. CAMPBELL: -- deliberations, Your Honor,
8 they were out, I believe it was over an hour, hour
9 and a half, something of that time range.

10 Your Honor, this jury I think did take -- we
11 went at lengths to explain the law to them in our
12 closing argument and to go through all that --
13 Ms. Walker did.

14 In addition to that, Your Honor, as the
15 Defense just said, if they believed our witnesses,
16 there wasn't a whole lot.

17 We also showed them -- even though there were
18 over 200 photographs, those were all shown to them
19 here in the courtroom, so it wasn't like they had
20 never seen these and they were a novel issue and
21 they had to prove for 30 seconds apiece. They had
22 been shown those pictures in the course of the
23 trial and had seen them, as well as all the
24 evidence in the case.

25 Additionally, Your Honor, I would note that

1 this jury took their deliberations very seriously.
2 They sent out I believe one to two notes, I can't
3 remember how many, and one of those specifically
4 asked for clarification as far as what the law was
5 they were to follow, which you responded to, with
6 Defense counsel's approval.

7 So it wasn't that they just went back there
8 and said, Oh, he's guilty, and threw up their
9 hands. Specifically, that shows that they went
10 through the individual indictments and took their
11 job seriously. And they were out an appropriate
12 amount of time, considering the facts of this case,
13 Your Honor.

14 THE COURT: Anything in response?

15 MR. SUTHERLAND: Just very briefly.

16 With respect to Captain McDonald, I have known
17 him for a long time, I wouldn't imply that he was
18 putting a gun to somebody's head, it is just from
19 an objective standard that would be frightening to
20 a reasonable person.

21 I appreciate that they did not attempt to
22 introduce autopsy photographs. I did argue a lot
23 from autopsy cases. I believe those cases are
24 appropriate to the argument that I was making.

25 But, again, I do appreciate the diagram issue,

1 because that has been an issue that has come up in
2 the past.

3 And everything else I would just respectfully
4 disagree with the State's conclusions, Judge.

5 And on the foregoing grounds and bases, I
6 would at this time move for a new trial, sir.

7 THE COURT: Well, the case was -- we were here
8 from Monday to Friday -- thoroughly tried and
9 defended. We spent -- my weeks are running
10 together. Didn't we do some pretrials beforehand,
11 or did we?

12 MS. WALKER: We did that Monday, Judge.

13 THE COURT: Did all of the pretrials on
14 Monday. Took extensive testimony on Jackson v.
15 Denno, Miranda. I made the rulings on
16 preponderance of the evidence that it was
17 voluntary. I charged the jury that it was up to
18 them to determine whether the State had proven
19 beyond a reasonable doubt that they had been given
20 their Miranda Warnings, and went all through that
21 charge.

22 I am going to stand by my ruling on the
23 Miranda. I think that obviously the State made the
24 threshold proof and that it went to the jury and
25 they made a decision -- may have made a decision

1 that it was voluntary and they gave it some weight.

2 As to the ID, we conducted a Neil versus
3 Biggers, Biggers versus Neil hearing to determine
4 the appropriateness of the process and whether or
5 not there was any suggestion as to it.

6 Number 6 that you kept arguing, I made my
7 ruling on that in pretrial. I stand by it. I
8 think as the trial developed, I don't know how the
9 ID could have been more objective, other than you
10 complained about them all being in the same
11 position, but I don't think that is suggesting,
12 that is just the way they were lined up.

13 I don't think there is any indication there
14 was a mugshot. I just talked about that.

15 I think the fact that there was some mention
16 about your client, threats, et cetera, being
17 incarcerated, we covered that in the trial. I
18 specifically remember advising the jury that the
19 marijuana questions had nothing to do with this,
20 they weren't to discuss that and to consider no
21 instances, et cetera.

22 The photos, I mean, they were -- for a crime
23 this horrible, where somebody was shot five times,
24 quite honestly, I think the State sanitized the
25 crime scene. When I say *sanitized*, used only those

1 photographs that were necessary to prove the case.
2 And by *sanitizing*, I mean, they left out a number
3 of photographs that could have been shown, i.e.,
4 the autopsy photographs and perhaps photographs of
5 the body, et cetera.

6 So I think they did it in a manner that was
7 most respectful to the laws dealing with the
8 gruesome photographs being cumulative and
9 inflammatory. I don't know how else they could
10 have proven their case. I thought they used a
11 minimum amount of photographs.

12 I have tried two cases in a row, your case two
13 weeks ago, one last week, and unfortunately --
14 fortunately, not unfortunately -- fortunately, my
15 two juries in the last two weeks have just paid
16 unbelievable attention. And I made that comment
17 with this jury. I thought -- every day I watched
18 them. I didn't have to wake anybody up. I didn't
19 have to prod anybody. They were there on time.
20 They showed extreme attention. And I commented a
21 number of times about that.

22 Sitting up here, the evidence was
23 overwhelming, and I thought that the length of the
24 deliberations -- I did not question that at all.

25 So, in totality, I would respectfully deny all

1 of your post-trial motions. And I don't think that
2 a written order is necessary.

3 Ms. Campbell, the protocol over here, do y'all
4 do written orders or just rely on the oral ruling
5 from the bench so you have the appropriate number
6 of days from the date of filing to appeal, should
7 that be deemed necessary.

8 MR. SUTHERLAND: Yes, sir. Thank you kindly,
9 Your Honor.

10 MS. CAMPBELL: Just from the bench, Your
11 Honor.

12 THE COURT: Thank y'all.

13 MS. WALKER: Thank you, Judge.

14 MS. CAMPBELL: Thank you.

15 (WHEREUPON, the proceedings were concluded.)
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25 (END OF TRANSCRIPT)

0	Attorney [1] 1/21 Attorneys [1] 1/20 autopsy [7] 13/14 13/17 14/2 14/5 16/22 16/23 19/4 available [2] 3/7 5/8 awful [1] 9/2	constantly [1] 11/9 context [2] 14/24 14/25 contradicted [1] 11/19 convicted [1] 6/13 cooperative [1] 10/23 copy [1] 3/24 corner [1] 5/1 corroborating [1] 14/16 counsel [1] 21/17 counsel's [1] 16/6 COUNTY [3] 1/2 21/5 21/14 couple [1] 8/20 course [3] 6/8 14/13 15/22 Court's [1] 4/2 courtroom [2] 8/25 15/19 covered [1] 18/17 credibility [1] 10/12 credible [5] 10/9 11/3 11/18 11/19 11/24 crime [3] 14/9 18/22 18/25 cross [1] 14/4 cumulative [3] 8/23 9/7 19/8 curative [3] 6/17 6/20 13/10 custodial [1] 4/8 custody [2] 8/1 11/4 cutting [1] 8/5
1	B	
11 [2] 1/11 3/1 11th [1] 21/15 13 [2] 7/10 8/3	background [1] 12/20 bases [1] 17/5 became [1] 14/10 beforehand [1] 17/10 behalf [1] 13/11 belief [2] 5/7 9/8 believed [2] 10/25 15/15 bench [2] 20/5 20/10 benign [1] 13/3 beyond [1] 17/19 Biggers [2] 18/3 18/3 bit [2] 4/6 12/5 bleeding [1] 13/24 blood [2] 9/5 14/24 bloody [1] 14/23 body [5] 8/24 9/6 13/22 14/2 19/5 brief [1] 10/7 briefly [2] 4/4 16/15 brutality [1] 9/12 Bugs [1] 5/21 Bunny [1] 5/21	
2	C	
200 [2] 9/22 15/18 2013-GS-40-01449 [1] 1/2 2013-GS-40-01452 [1] 1/2 2013-GS-40-01458 [1] 1/3 2013-GS-40-01460 [1] 1/3 2013-GS-40-01481 [1] 1/4 2014 [4] 1/11 3/1 21/15 21/19	called [2] 2/4 5/9 CAMPBELL [4] 1/19 3/2 10/16 20/3 can [2] 3/5 8/4 can't [1] 16/2 Captain [4] 4/10 10/25 11/9 16/16 captioned [1] 21/13 CAROLINA [6] 1/1 1/6 1/11 21/4 21/10 21/14 Carrie [2] 4/19 12/5 cases [9] 5/25 8/18 9/9 9/14 13/25 14/19 16/23 16/23 19/12 cell [1] 7/17 Center [1] 12/18 centered [1] 5/18 certainly [3] 4/1 5/12 6/1 CERTIFICATE [1] 21/1 certify [2] 21/10 21/16 cetera [3] 18/16 18/21 19/5 charge [2] 7/10 17/21 charged [1] 17/17 Circuit [2] 21/9 21/23 cite [2] 9/10 13/14 cites [2] 13/13 13/25 clarification [1] 16/4 client [6] 4/11 5/2 6/9 7/15 8/9 18/16 close [1] 8/24 closing [1] 15/12 coercion [1] 11/12 Columbia [1] 1/11 come [2] 7/12 17/1 comment [1] 19/16 commented [1] 19/20 complained [1] 18/10 complete [1] 21/11 concern [2] 4/22 5/18 concluded [1] 20/15 conclusions [1] 17/4 conducted [1] 18/2 consider [1] 18/20 considering [1] 16/12 consistent [1] 6/4	
3		D
30 [3] 9/24 15/21 21/19		date [1] 20/6 days [2] 3/20 20/6 dealing [2] 6/1 19/7 death [2] 9/9 9/12 DEBORAH [4] 1/25 21/8 21/21 21/23 decision [2] 17/25 17/25 Deck [1] 6/14 deem [2] 5/12 6/1 deemed [1] 20/7 Defendant [4] 1/10 1/21 7/25 11/1 Defendant's [1] 11/18 defended [1] 17/9 Defense [4] 11/9 13/11 15/15 16/6 deliberations [6] 9/25 10/6 15/6 15/7 16/1 19/24 Demetrius [1] 7/14 Denno [1] 17/15 deny [1] 19/25 DESCRIPTION [1] 2/13 detail [1] 4/15 Detention [1] 12/18 determination [3] 8/10 9/23 10/10 determinations [1] 10/12 determine [2] 17/18 18/3 developed [2] 4/19 18/8 diagram [1] 16/25 diagrams [2] 13/18 13/19 did [20] 4/10 6/10 6/18 7/12 7/13 9/10 12/3 13/20 14/6 14/8 15/2 15/10 15/13 16/21 16/22 17/11 17/12 17/13 19/6 19/24 different [2] 4/7 10/24 disagree [2] 10/12 17/4 discuss [1] 18/20 discussed [1] 6/2 disregard [1] 6/24 does [1] 12/4 done [1] 3/16 doubt [1] 17/19 down [1] 4/18 DOYET [1] 1/16 draws [1] 5/23 driver's [1] 12/21 driveway [1] 14/11 during [4] 2/5 4/19 5/20 9/14
4		
40 [1] 5/14		
A		
absolutely [2] 4/1 13/16 accumulation [1] 9/18 accurate [1] 21/11 actual [1] 13/14 actually [3] 4/5 4/20 6/21 add [1] 4/10 added [1] 4/13 addition [5] 7/24 12/8 12/12 14/22 15/14 additional [1] 4/13 Additionally [1] 15/25 address [1] 13/13 advised [1] 11/6 advising [1] 18/18 again [2] 13/7 16/25 ago [1] 19/13 ahead [1] 3/8 allowed [1] 14/20 alluding [1] 8/2 already [1] 12/17 Alvin [1] 12/18 am [2] 17/22 21/16 amount [4] 9/5 10/4 16/12 19/11 anybody [2] 19/18 19/19 anyone [1] 13/23 apiece [1] 15/21 apparent [1] 14/10 appeal [2] 20/6 21/13 appreciate [3] 3/17 16/21 16/25 appropriate [3] 16/11 16/24 20/5 appropriateness [1] 18/4 approval [1] 16/6 argue [1] 16/22 argued [1] 10/17 arguing [1] 18/6 argument [5] 7/9 8/4 9/2 15/12 16/24 around [1] 5/18 ask [2] 11/25 12/4 asked [2] 13/10 16/4 ASSISTANT [2] 1/19 1/19 assume [1] 3/12 at [16] 3/6 5/1 7/13 7/17 9/14 9/25 10/21 12/9 13/2 13/7 13/15 14/1 14/11 15/11 17/6 19/24 attempt [1] 16/21 attention [3] 5/23 19/16 19/20		

<p>E</p> <p>each [2] 3/22 9/25 EARLY [1] 1/16 Edwards [1] 14/18 effect [3] 5/23 7/16 9/16 either [2] 10/24 14/1 element [1] 4/13 else [3] 10/13 17/3 19/9 END [1] 20/25 entice [1] 11/16 enumerated [1] 4/15 ESQ [1] 1/21 et [3] 18/16 18/21 19/5 EV [1] 2/13 even [4] 11/4 11/8 13/14 15/17 ever [2] 7/20 11/13 every [4] 9/22 9/23 13/13 19/17 everybody [1] 5/20 everyone [1] 6/4 everything [6] 3/10 6/7 10/9 10/13 11/21 17/3 exhibits [3] 2/12 9/22 10/6 explain [1] 15/11 explained [1] 11/8 explaining [1] 11/12 extensive [1] 17/14 extent [2] 4/7 7/22 extreme [1] 19/20</p>	<p>gun [4] 4/12 11/10 11/13 16/18 guy [1] 5/1</p> <p>H</p> <p>half [1] 15/9 hand [2] 14/13 14/14 hands [1] 16/9 happened [2] 10/11 15/1 have [23] having [1] 10/20 he [19] 4/10 7/10 7/14 7/16 7/20 7/21 8/2 10/17 10/22 11/3 11/4 11/7 11/11 12/4 12/13 13/8 13/13 13/25 16/17 he's [2] 7/9 16/8 head [4] 4/12 11/10 11/14 16/18 hear [2] 3/9 8/25 heard [1] 11/21 hearing [1] 18/3 hearings [1] 12/3 height [1] 12/19 hereby [1] 21/10 hereto [1] 21/17 holding [1] 7/17 honestly [1] 18/24 HONORABLE [1] 1/16 hoops [1] 11/6 hope [1] 11/24 horrible [1] 18/23 hour [2] 15/8 15/8 however [1] 14/14 hundreds [1] 14/5</p>	<p>it [48] itself [1] 14/24 IV [1] 1/21 715</p> <p>J</p> <p>Jackson [1] 17/14 jail [9] 5/22 6/12 7/15 7/17 7/18 7/19 12/23 13/2 13/2 James' [1] 7/14 job [1] 16/11 Jr [1] 1/9 JUDGE [5] 1/16 3/6 17/4 17/12 20/13 Judicial [1] 21/9 jumped [1] 11/5 June [1] 21/19 juries [1] 19/15</p>
<p>F</p> <p>fact [2] 8/2 18/15 factor [1] 14/15 facts [1] 16/12 family [1] 8/25 far [13] 5/8 7/8 10/21 11/11 11/21 11/22 12/2 12/14 12/15 13/12 14/15 15/4 16/4 Faust [1] 12/14 feeds [1] 10/2 feel [1] 14/7 Fifth [2] 21/9 21/23 fight [1] 15/1 file [1] 3/20 filed [2] 3/3 5/24 filing [1] 20/6 Finally [1] 15/4 find [2] 10/8 11/17 finding [2] 10/20 10/22 five [1] 18/23 follow [1] 16/5 foregoing [2] 17/5 21/10 fortunately [2] 19/14 19/14 Franklin [1] 14/18 Friday [1] 17/8 frightening [1] 16/19 fully [1] 12/13 further [2] 13/9 21/16</p>	<p>I</p> <p>I'd [1] 3/8 I'm [6] 3/8 4/11 8/4 8/24 9/2 11/1 I've [1] 5/13 i.e [1] 19/3 ID [7] 2/13 6/3 6/4 12/15 13/3 18/2 18/9 identification [7] 4/3 4/17 5/5 5/19 7/6 12/2 12/13 identified [1] 12/7 III [1] 1/16 illustrate [1] 11/11 impeached [1] 12/13 imply [1] 16/17 important [1] 14/15 incarcerated [6] 6/10 7/10 8/3 8/9 13/7 18/17 incarceration [3] 7/3 7/5 7/8 indicated [2] 11/3 13/1 indication [2] 13/4 18/13 indictments [1] 16/10 individual [1] 16/10 inflamed [1] 10/4 inflammatory [3] 9/8 9/10 19/9 initial [1] 10/20 innocence [1] 6/11 innocent [1] 5/1 inside [1] 15/1 insofar [1] 14/11 instances [1] 18/21 instruction [3] 6/17 6/20 13/10 interest [1] 21/17 into [3] 7/25 10/2 11/16 introduce [4] 3/24 14/4 14/20 16/22 introduce the [1] 14/4 introduced [1] 21/12 introduction [2] 9/19 14/9 involved [1] 9/12 is [34] issue [9] 4/17 4/18 5/6 10/21 12/14 14/11 15/20 16/25 17/1 issues [1] 10/3</p>	<p>K</p> <p>kept [1] 18/6 kin [1] 21/16 kindly [1] 20/8 knowing [1] 8/8 known [2] 4/24 16/16 knows [2] 5/21 7/24</p> <p>L</p> <p>language [1] 8/18 last [3] 5/2 19/13 19/15 lasted [1] 10/1 lastly [1] 9/21 later [1] 11/16 law [2] 15/11 16/4 laws [1] 19/7 left [1] 19/2 length [4] 10/5 15/4 15/6 19/23 lengths [1] 15/11 leniency [1] 11/24 license [1] 12/21 Lieutenant [1] 10/25 limit [2] 14/8 15/2 line [6] 4/21 4/25 5/3 12/10 12/15 14/4 line-up [5] 4/21 4/25 5/3 12/10 12/15 lined [1] 18/12 listened [1] 10/20 little [2] 4/7 12/5 long [1] 16/17 longer [1] 10/1 look [1] 12/20 looked [2] 12/6 12/9 looking [1] 9/25 lot [2] 15/16 16/22 LUCK [1] 1/19 lying [1] 13/24</p>
<p>G</p> <p>Gaston [1] 4/20 gave [3] 3/20 6/17 18/1 GENERAL [2] 1/1 21/14 generally [2] 13/21 14/9 getting [1] 5/2 given [1] 17/19 Glenn [1] 12/18 good [1] 4/6 grounds [1] 17/5 gruesome [2] 8/17 19/8 GS [5] 1/2 1/2 1/3 1/3 1/4 guilt [1] 9/14 guilty [1] 16/8</p>	<p>M</p> <p>mail [1] 3/21 Major [1] 4/8 making [2] 8/9 16/24 manner [3] 10/17 11/11 19/6 many [1] 16/3 March [3] 1/11 3/1 21/15 marijuana [2] 6/21 18/19 marked [1] 4/3 matter [3] 8/24 9/6 14/14 Maurcie [1] 1/9 McCURDY [4] 1/25 21/8 21/21 21/23 McDonald [4] 4/10 11/1 11/10 16/16 mean [5] 7/25 9/2 11/12 18/22 19/2 MEGHAN [1] 1/19 memorandum [4] 3/11 3/15 6/22 12/5 mention [4] 8/2 9/24 12/4 18/15 mentioned [2] 6/22 7/20</p>	

<p>M</p> <p>mentions [1] 13/8 might [3] 3/24 10/10 11/12 minimum [1] 19/11 Miranda [5] 10/17 10/21 17/15 17/20 17/23 Mirandized [1] 11/17 misquote [1] 12/5 Missouri [1] 6/14 Monday [3] 17/8 17/12 17/14 months [2] 7/10 8/3 most [1] 19/7 motion [2] 4/16 5/24 motions [5] 2/14 3/3 3/19 3/21 20/1 move [1] 17/6 Mr. [3] 3/5 3/20 3/22 Mr. Roberts [2] 3/5 3/20 Mr. Sutherland [1] 3/22 Ms. [4] 3/2 10/16 15/13 20/3 Ms. Campbell [3] 3/2 10/16 20/3 Ms. Walker [1] 15/13 mugshot [4] 6/2 13/2 13/5 18/14 mugshots [5] 5/9 5/13 5/13 5/25 6/1</p>	<p>past [1] 17/2 Pause [1] 3/18 Pearson [2] 4/19 12/6 penalty [3] 9/9 9/11 9/12 people [2] 4/23 5/22 perhaps [2] 10/3 19/4 person [5] 6/12 12/7 12/9 12/11 16/20 perspective [1] 8/23 phase [2] 9/11 9/14 phonetic [1] 14/19 photo [2] 4/21 6/2 photograph [5] 8/22 13/3 13/14 13/15 14/23 photographs [17] 8/17 8/21 12/20 12/21 12/21 13/12 13/17 13/20 13/23 15/18 16/22 19/1 19/3 19/4 19/4 19/8 19/11 photos [3] 7/7 9/20 18/22 physical [1] 10/6 picked [2] 4/20 5/2 pics [1] 5/4 picture [3] 4/21 12/17 14/2 pictures [6] 9/6 9/7 9/10 14/5 14/21 15/22 Plaintiff [2] 1/7 1/20 point [2] 7/13 8/19 police [1] 11/5 position [4] 8/12 8/21 11/2 18/11 possible [2] 11/22 12/12 post [4] 3/3 3/19 5/25 20/1 post-trial [4] 3/3 3/19 5/25 20/1 prejudicial [4] 7/11 9/16 9/19 14/8 preponderance [1] 17/16 presumption [1] 6/11 pretrial [4] 4/6 4/18 7/8 18/7 pretrials [2] 17/10 17/13 previous [1] 12/1 principal [1] 4/22 principle [2] 6/15 8/13 prior [3] 7/3 7/5 11/7 probative [2] 9/15 14/8 proceedings [3] 2/5 20/15 21/12 process [1] 18/4 prod [1] 19/19 promise [2] 4/14 11/23 proof [1] 17/24 prospective [1] 9/17 protocol [1] 20/3 prove [2] 15/21 19/1 proven [2] 17/18 19/10 purposes [2] 9/1 14/6 put [5] 3/13 4/11 8/14 11/13 14/22 putting [2] 11/10 16/18</p>	<p>rely [1] 20/4 remember [2] 16/3 18/18 removed [1] 13/22 Reporter [4] 1/25 21/1 21/8 21/23 respect [9] 4/5 4/23 5/5 6/9 6/21 7/6 8/16 9/22 16/16 respectful [1] 19/7 respectfully [2] 17/3 19/25 responded [1] 16/5 response [1] 16/14 reward [1] 11/24 RICHLAND [3] 1/2 21/5 21/14 rights [1] 11/6 Roberts [4] 1/9 3/4 3/5 3/20 rotation [1] 5/3 row [1] 19/12 RPR [3] 1/25 21/21 21/23 ruling [4] 12/1 17/22 18/7 20/4 rulings [1] 17/15 running [1] 17/9</p>
<p>N</p> <p>nature [4] 9/7 9/11 13/24 15/2 necessary [3] 19/1 20/2 20/7 need [1] 8/23 Neil [2] 18/2 18/3 neither [1] 21/16 never [2] 13/9 15/20 new [1] 17/6 next [1] 4/24 nor [1] 21/17 note [2] 12/16 15/25 notes [1] 16/2 nothing [3] 12/25 13/1 18/19 novel [1] 15/20 now [2] 3/6 11/2 numbers [2] 5/6 7/6</p>	<p>Q</p> <p>question [2] 12/13 19/24 questioning [1] 11/7 questions [1] 18/19 quite [1] 18/24</p>	<p>S</p> <p>s/Deborah [1] 21/21 said [9] 5/20 6/25 7/20 9/13 12/6 12/10 12/17 15/15 16/8 same [8] 4/18 5/3 6/5 6/16 8/5 8/13 9/14 18/10 sanitized [2] 18/24 18/25 sanitizing [1] 19/2 say [2] 12/7 18/25 scenarios [1] 10/24 scene [7] 13/15 13/21 13/23 14/1 14/9 14/25 18/25 Scott [1] 12/9 second [1] 4/17 seconds [2] 9/24 15/21 seen [5] 4/25 5/13 14/1 15/20 15/23 sent [1] 16/2 Sergeant [2] 10/25 12/14 series [1] 8/21 seriously [2] 16/1 16/11 SESSIONS [2] 1/1 21/14 several [1] 4/25 shackling [2] 6/15 8/11 she [4] 4/20 8/6 12/7 12/7 shot [2] 9/17 18/23 should [2] 11/6 20/6 show [2] 9/11 13/20 showed [3] 8/22 15/17 19/20 showing [2] 4/23 15/1 shown [3] 15/18 15/22 19/3 shows [1] 16/9 sign [1] 5/16 similar [1] 12/20 simply [2] 6/3 13/3 since [1] 5/20 Sitting [1] 19/22 Smith [1] 4/8 SOLICITOR [2] 1/19 1/19 solution [1] 5/8 somebody [2] 4/25 18/23 somebody's [1] 16/18 something [5] 3/13 5/22 6/13 7/16 15/9 sorry [2] 8/25 11/1 sort [3] 7/5 8/24 10/2 SOUTH [6] 1/1 1/6 1/11 21/4 21/9 21/14 specific [1] 14/23 specifically [8] 12/8 12/10 13/25 14/3 14/16 16/3 16/9 18/18 spent [2] 9/24 17/9 spoke [1] 4/18 stand [3] 11/25 17/22 18/7</p>
<p>O</p> <p>objected [1] 8/20 objection [1] 9/20 objective [2] 16/19 18/9 obviously [1] 17/23 occurred [1] 6/8 off [1] 8/5 Offender [3] 5/5 5/19 12/15 offer [1] 13/16 Official [2] 1/25 21/8 Oh [2] 5/15 16/8 on [27] once [1] 13/21 only [5] 4/3 4/6 13/8 13/20 18/25 opinion [1] 13/5 opportunity [1] 9/16 oral [1] 20/4 order [1] 20/2 orders [1] 20/4 our [3] 14/9 15/11 15/15 outline [1] 6/10 overwhelming [2] 10/11 19/23</p>	<p>R</p> <p>raised [1] 5/6 range [1] 15/9 rather [2] 3/8 9/17 ready [1] 3/9 reasonable [2] 16/20 17/19 recall [2] 7/23 8/3 received [1] 3/21 recent [1] 14/19 recollection [1] 8/5 record [5] 1/8 3/13 6/7 8/14 21/11 redaction [1] 5/8 referring [1] 7/2 refers [1] 11/9 relative [1] 21/13</p>	<p>P</p> <p>paid [1] 19/15 Panerri [1] 14/19 part [1] 4/8 participation [1] 14/12 particular [1] 8/22 party [1] 21/17 passions [1] 10/3</p>
<p>P</p> <p>paid [1] 19/15 Panerri [1] 14/19 part [1] 4/8 participation [1] 14/12 particular [1] 8/22 party [1] 21/17 passions [1] 10/3</p>	<p>Q</p> <p>question [2] 12/13 19/24 questioning [1] 11/7 questions [1] 18/19 quite [1] 18/24</p>	<p>R</p> <p>raised [1] 5/6 range [1] 15/9 rather [2] 3/8 9/17 ready [1] 3/9 reasonable [2] 16/20 17/19 recall [2] 7/23 8/3 received [1] 3/21 recent [1] 14/19 recollection [1] 8/5 record [5] 1/8 3/13 6/7 8/14 21/11 redaction [1] 5/8 referring [1] 7/2 refers [1] 11/9 relative [1] 21/13</p>

S
 standard [1] 16/19
 State's [4] 10/9 11/2 11/19 17/4
 stated [1] 4/11
 statement [1] 11/22
 statements [1] 4/5
 store [2] 5/1 5/1
 submitted [1] 6/14
 suggesting [1] 18/11
 suggestion [1] 18/5
 suit [1] 3/2
 suits [1] 3/6
 supplemented [1] 4/7
 support [1] 8/12
 Supreme [1] 8/12
 sure [2] 9/4 14/3
 SUTHERLAND [2] 1/21 3/22

T
 taken [4] 7/25 12/22 13/2 13/9
 talk [1] 13/25
 talked [3] 5/25 7/16 18/14
 talking [3] 9/3 11/10 11/16
 technically [1] 11/4
 ten [1] 3/20
 term [1] 8/16
 testified [3] 4/20 7/14 11/1
 testimony [10] 6/9 7/14 7/23 10/21 11/13
 11/15 11/18 13/6 14/17 17/14
 Thank [6] 8/15 10/14 20/8 20/12 20/13 20/14
 that [152]
 their [9] 6/5 8/9 9/19 10/3 16/1 16/8 16/10
 17/20 19/10
 there [23]
 they [39]
 thing [3] 9/2 12/19 12/19
 things [1] 15/2
 think [14] 4/6 6/10 6/25 7/19 7/20 15/10
 17/23 18/8 18/11 18/13 18/15 18/24 19/6
 20/1
 this [15] 8/22 12/10 12/16 13/17 14/5 14/7
 14/11 14/17 15/10 16/1 16/12 17/6 18/19
 18/23 19/17
 thoroughly [1] 17/8
 though [2] 11/4 15/17
 thought [3] 19/10 19/17 19/23
 threat [2] 4/13 11/23
 threatened [1] 7/22
 threatening [1] 7/15
 threats [1] 18/16
 threshold [1] 17/24
 threw [1] 16/8
 through [7] 3/22 11/5 11/5 11/7 15/12 16/10
 17/20
 throughout [1] 6/8
 times [4] 5/1 6/3 18/23 19/21
 TIVIS [1] 1/21
 together [3] 7/21 13/9 17/10
 told [1] 6/23
 took [4] 6/7 16/1 16/10 17/14
 totality [1] 19/25
 TRANSCRIPT [3] 1/8 20/25 21/11
 transported [2] 7/21 13/8
 trial [15] 3/3 3/19 4/19 5/20 5/25 6/8 7/11
 10/5 13/7 15/23 17/6 18/8 18/17 20/1 21/12
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STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of General Sessions

Doyet A. Early, III, Presiding Judge, 5th Judicial Circuit

Indictment Numbers: 2013-GS-40-1449, 2013-GS-40-1452, 2013-GS-40-1458, 2013-GS-40-1460, 2013-GS-40-1481



The State,.....Respondent,

v.

Maurice Alphonso Roberts, Jr.,.....Appellant.

NOTICE OF APPEAL

Maurice Alphonso Roberts, Jr. appeals his conviction and sentence in this case. The sentence was imposed by the Honorable Doyet A. Early, III on February 28, 2014. Post-trial motions were filed March 7, 2014 and heard on March 11, 2014.

March 11, 2014



Tivis Colley Sutherland, IV
Attorney for Appellant
1916 Barnwell Street
Columbia, South Carolina 29201
(803) 787-5737

Other Counsel of Record:

Assistant Solicitor Kathryn L. Campbell
Office of the Solicitor, Fifth Judicial Circuit
Richland County Judicial Center
1701 Main Street
Columbia, South Carolina 29201
Attorney for Respondent

RECEIVED

MAR 11 2014

SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of General Sessions

Doyet A. Early, III, Presiding Judge, 5th Judicial Circuit

Indictment Numbers: 2013-GS-40-1449, 2013-GS-40-1452, 2013-GS-40-1458, 2013-GS-40-1460, 2013-GS-40-1481

The State,.....Respondent,

v.

Maurice Alphonso Roberts, Jr.,.....Appellant.

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Notice of Intent to Appeal in the above-referenced case has been served upon opposing counsel by delivering same this date to their office at the Office of the Solicitor, Fifth Judicial Circuit, Richland County Judicial Center, 1701 Main Street, Columbia, South Carolina 29201.

March 11, 2014



Tivis Colley Sutherland, IV
1916 Barnwell Street
Columbia, South Carolina 29201
(803) 787-5737
Attorney for Appellant

Other Counsel of Record:

Assistant Solicitor Kathryn L. Campbell
Office of the Solicitor, Fifth Judicial Circuit
Richland County Judicial Center
1701 Main Street
Columbia, South Carolina 29201
Attorney for Respondent

RECEIVED

MAR 11 2014

SC Court of Appeals

WITNESSES

(S) J H Boland -- Richland County
Sheriff

ARREST WARRANT NUMBER

2013A4010200347

ACTION OF GRAND JURY

TRUE BILL

For person of Grand Jury
Date:

FEB 13 2013

VERDICT

For person of Petit Jury
Date:

DOCKET NO. 2013GS4001449

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2013

42

**THE STATE
vs.**

Maurice A Roberts

**Indictment for
BURGLARY 1ST DEGREE**

SC Code: 16-11-0311

CDR Code: 0079

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

WITNESSES

(S) J H Boland -- Richland County
Sheriff

ARREST WARRANT NUMBER

2013A4010200350

ACTION OF GRAND JURY

TRUE BILL

For person of Grand Jury
Date:

FEB 13 2013

VERDICT

For person of Petit Jury
Date:

DOCKET NO. 2013GS4001452

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2013

42

THE STATE

vs.

Maurice A Roberts

**Indictment for
MURDER**

SC Code: 16-03-0010

CDR Code: 0116

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

WITNESSES

(S) J H Boland – Richland County
Sheriff

ARREST WARRANT NUMBER

2013A4010200348

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury FEB 13 2013
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2013GS4001458

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2013

42

**THE STATE
vs.**

Maurice A Roberts

**Indictment for
ATTEMPTED MURDER**

SC Code: 16-03-0029
CDR Code: 3410

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

WITNESSES

(S) J H Boland – Richland County
Sheriff

ARREST WARRANT NUMBER

2013A4010200349

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: FEB 13 2013

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2013GS4001460

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2013

42

**THE STATE
vs.**

Maurice A Roberts

**Indictment for
ATTEMPTED MURDER**

SC Code: 16-03-0029
CDR Code: 3410

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

WITNESSES

(S) -- J.H. Boland - RCSD

ARREST WARRANT NUMBER

DP13042

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury **FEB 13 2013**
Date:

VERDICT

DOCKET NO. 2013GS4001481

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2013

42

**THE STATE
vs.**

Maurice A Roberts

**Indictment for
ATTEMPTED ARMED ROBBERY**

**SC Code: 16-11-0330(B)
CDR Code: 0026**

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

Foreperson of Petit Jury
Date:

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

September 4, 2015



Robert M. Dudek
Chief Appellate Defender

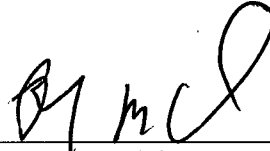
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

September 4, 2015



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
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ATTORNEY FOR APPELLANT

RECEIVED

SEP 04 2015

SC Court of Appeals